

**NOMINATIONS OF
COLLEEN J. SHOGAN, VIJAY SHANKER,
LAURA E. CRANE, LESLIE A. MEEK, AND
VERONICA M. SANCHEZ**

HEARING

BEFORE THE

**COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
ONE HUNDRED SEVENTEENTH CONGRESS**

SECOND SESSION

NOMINATIONS OF COLLEEN J. SHOGAN TO BE ARCHIVIST OF THE
UNITED STATES, NATIONAL ARCHIVES AND RECORDS ADMINISTRATION,
VIJAY SHANKER TO BE AN ASSOCIATE JUDGE, DISTRICT OF
COLUMBIA COURT OF APPEALS, AND LAURA E. CRANE,
LESLIE A. MEEK, AND VERONICA M. SANCHEZ TO BE ASSOCIATE
JUDGES, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

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**NOMINATIONS OF
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VERONICA SANCHEZ**

WEDNESDAY, SEPTEMBER 21, 2022

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:02 a.m., in room 342, Dirksen Senate Office Building, Hon. Gary C. Peters, Chairman of the Committee, presiding.

Present: Senators Peters, Hassan, Sinema, Ossoff, Portman, Johnson, Lankford, Scott, and Hawley.

OPENING STATEMENT OF CHAIRMAN PETERS¹

Chairman PETERS. The Committee will come to order.

The National Archives and Records Administration (NARA), often shortened to the National Archives, is responsible for adequately maintaining and preserving Presidential and Federal records. These records are not just essential to keeping an accurate account of government activities or holding the Executive Branch accountable; they are critical to ensuring that our nation's history is fully and accurately preserved for future generations.

The National Archives preserves some of our nation's most fundamental documents, like the U.S. Constitution and the Declaration of Independence, as well as letters, photographs, newspapers, and congressional papers that tell the story of the United States from its earliest days until today. The National Archives also protects and provides access to critical records and documents for the public to use, from historical documents to educational resources and, most importantly, for veterans and for servicemembers, who need military personnel records to access the benefits that they have earned and deserve through their services.

Preserving all of these important records is a significant undertaking, and it requires qualified, independent, nonpartisan leadership that is committed to serving in the best interest of the American people.

Dr. Shogan, if confirmed, you will not only oversee the National Archives's responsibility to preserve these essential documents; you will also face several challenges including antiquated resources and

¹ The prepared statement of Senator Peters appear in the Appendix on page 29.

technology, the rapid proliferation of electronic records, extensive backlogs from veterans' requests, and the need to ensure that all records from every President and Federal agency are completely and adequately preserved.

I am confident that Congress can take the necessary steps to help address these challenges, modernize the government's record-keeping processes, and restore transparency and access for all Americans. As Chairman of this Committee, I am working to build support for legislation that I am drafting that will strengthen existing laws, update regulations, and modernize recordkeeping processes to incorporate emerging technologies. We held a hearing on this issue earlier this year as well, and I look forward to continuing to work with my colleagues to build on these efforts to protect the public record.

Dr. Shogan, I am pleased to welcome you here today to discuss your nomination to serve in this very important role and how we can better work together to achieve these vital goals. Not only are you extremely well qualified for this position, in our meetings about your nomination, you have demonstrated keen judgment, nonpartisan independence, and the necessary capabilities to succeed in this challenging role. Your nomination is also historic, and once confirmed, you will be the first woman to serve as the Archivist of the United States.

Congratulations on your nomination, and I look forward to hearing more from you today.

Today, we are also considering four nominees to serve as judges for the District of Columbia Court of Appeals and D.C. Superior Court. These nominees are Vijay Shanker to be the Associate Judge (AJ) on the D.C. Court of Appeals, and Laura Crane, Leslie Meek, and Veronica Sanchez to be Associate Judges on the D.C. Superior Court. I am pleased to have these highly qualified nominees before us here today, each with a longstanding commitment to public service.

The D.C. Superior Court and D.C. Court of Appeals function as the State-level trial and appellate courts within the unique justice system here in the Nation's Capital. Both courts are responsible for large volumes of cases each year, and the National Center for State Courts (NCSC) reports the D.C. Superior Court files approximately 83,000 new cases across its five divisions each year, one of the highest per capita rates in the entire country. Despite this enormous caseload, both courts are suffering from extensive judicial vacancies which have delayed resources for parties before the courts and has increased the workload for judges.

If confirmed, you will not only take on these caseloads but determine matters that impact the freedom, livelihoods, and families of many people who will come before you. Today's hearing is an important opportunity for this Committee to learn more about your qualifications and how you plan to serve.

So, welcome to each of you, as well as your family members who are joining you here today, and thank you for your willingness to serve. We look forward to hearing from all of you today.

Our Acting Ranking Member, James Lankford, you are now recognized for your opening comments.

OPENING STATEMENT OF SENATOR LANKFORD¹

Senator LANKFORD. Chairman Peters, thank you very much. Thanks for holding this hearing.

You all have extensive backgrounds, extensive amount of experience. This is not a fun process to be able to go through for anyone and for your families, so thanks for stepping up to be able to engage. Agree or disagree on this, it is a difficult process for any American to go through, and it is very real public service. Thanks for your engagement at this point and the questions you have already answered and the process that you have already walked through on this.

Traditionally, a nomination hearing for an Archivist and positions in D.C. judicial nominations is, quite frankly, a pretty sleepy hearing as we walk through all the different issues and just a basic process because they have gone through. Obviously, there are some new issues that have arisen of late on this.

The position of the Archivist—and by the way, Dr. Shogan and I have had this conversation as recently as yesterday, on the proper pronunciation, if it is “Ar-chi-vist” or “Arch I vist”. Since she prefers the term “Arch I vist” and she is being nominated for the position, we will stick with her pronunciation of it as well.

But the position of the Archivist, typically, is one that is a non-partisan position that there is not a lot of attention to, but there are two new issues that are fairly recent that have drawn a lot of attention to the National Archives on this, and I want to be able to mention both those.

The Federal Courts and the Office of Legal Counsel (OLC) at Department of Justice (DOJ) have both been very clear on the Equal Rights Amendment (ERA). That amendment went through the process constitutionally and had an expiration on that, but for whatever reason there are some activists that have risen up and declared that the Archivist can just unilaterally declare that part of the Constitution.

The former Archivist stated that the National Archives refers to the Department of Justice on this issue and will abide by the Office of Legal Counsel opinion unless otherwise directed by a final court order. Over this past year, that has still put the National Archives at the center of that controversy on that, and so today is the day we need to be able to clarify as well where the National Archives will continue to be able to move forward with the statutes in the law and how the constitutional process works.

There has also obviously been an issue on the return of Presidential records, which escalated to the point that the personal residence of former President Donald Trump was searched by the Federal Bureau of Investigation (FBI) in an absolutely unprecedented step. That was an initial request from the National Archives for records; then a search was carried out by the FBI.

There has been a lot of questions about how that happened, what were the requests, what requests were accepted or denied. This is something that Senator Scott and I have both written a letter to the Chairman to try to get some sort of briefing on this.

¹The prepared statement of Senator Lankford appears in the Appendix on page 31.

There was a briefing that then happened on what happened since the Mar-a-Lago raid, but there still has not been information from the National Archives on what has actually occurred, what led to that moment. It is a very unprecedented moment.

Obviously, the current nominee was not the Archivist at that point and cannot answer the questions from before, but there will still be a lot of questions about transparency and what occurs for an agency and an entity that is responsible for holding records and making those records publically available. One of the questions we will have is: What was the process leading up to this search, and are those records going to be publically available like every other record is publically available through the National Archives?

Turning to the District of Columbia, thank you again for engaging in this. All of you have extensive background in the law, and I look forward to the questions and the issues on this. You are walking into a time where we absolutely need additional judges in the District of Columbia and we need folks that are going to just simply follow the law in this.

There is also an ongoing conversation the Chairman and I have had on this as well, working with the Mayor of D.C., because months ago five preborn children were—their remains were taken in by Metropolitan Police. They were recovered. They were very late term, and they were identified to be connected to a Washington surgery clinic.

In the District of Columbia, partial-birth abortions are illegal like they are everywhere else in the country. These children had every appearance of being victims of a partial birth abortion, and so we have had some very careful questions of the District of Columbia, saying: How are you investigating this? What is the process when you discover this kind of action is actually taking place in the District of Columbia?

We have engaged with the Mayor to try to get answers to the questions on this and what they are actually doing to be able to follow through, but instead, the Mayor's Office has simply responded that they are going after the whistleblower in this case and that they are turning the whistleblower in instead of actually investigating the death of these children.

We are asking some very straightforward questions, and we will continue to be able to ask those straightforward questions, and we plan to be able to get answers from the Mayor's Office. What is the plan in the days ahead when you discover the possibility that there is a crime being committed in the District of Columbia?

Obviously, all of you will one day be hearing cases that will be very difficult, emotional cases like that in the days ahead.

I am going to continue to be able to press this issue and continue to be able to press the Mayor's Office to be able to be engaged. In the meantime, I am going to continue to be able to work on our nominees and the process there to be able to get through, assuming that the Mayor is going to be responsive at some point, and continue to use the only leverage that I have in the meantime to be able to have a responsive nature.

In the District of Columbia, the law has to be enforced as it does everywhere else in the country. We just want consistency in enforcement of the law, and I think that is a fairly reasonable request

to be able to work through. We will continue to be able to have that dialog.

Mr. Chairman, thank you for holding this hearing. These are important people to be able to engage with, and I look forward to the dialog and answering questions.

Chairman PETERS. Thank you. Thank you, Senator Lankford.

It is the practice of the Homeland Security and Governmental Affairs Committee (HSGAC) to swear in witnesses, so if each of you would please stand and raise your right hand.

Do you swear the testimony you will give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. SHOGAN. I do.

Mr. SHANKER. I do.

Ms. CRANE. I do.

Ms. MEEK. I do.

Ms. SANCHEZ. I do.

Chairman PETERS. You may be seated. We will have an introduction for Dr. Shogan, but we are waiting for one of our colleagues to show up here. She is in a hearing right now.

I will start with our D.C. judges. Our first nominee is Vijay Shanker, Deputy Chief of the Appellate Section of the Criminal Division at the United States Department of Justice and Senior Litigation Counsel Detail in the Criminal Division's Fraud Section. In his role, he investigates and prosecutes violations of the Foreign Corrupt Practices Act and advises attorneys and leadership on a range of legal issues and litigation matters.

Previously, Mr. Shanker served in the Office of Assistant Attorney General (OAGG) for the Criminal Division, first as Senior Counsel and then as Acting Deputy Chief of Staff and Counselor to the Assistant Attorney General (AAG).

Mr. Shanker has been awarded the Attorney General's (AGs) John Marshall Award, the Assistant Attorney General's Award for Exceptional Service, and the Assistant Attorney General's Award for Distinguished Service.

Mr. Shanker, welcome to the Committee. You may proceed with your opening remarks.

TESTIMONY OF VIJAY SHANKER,¹ NOMINATED TO BE ASSOCIATE JUDGE, DISTRICT OF COLUMBIA COURT OF APPEALS

Mr. SHANKER. Thank you. Good morning, Chairman Peters, Ranking Member Portman, and Members of the Committee. I am honored and humbled to appear before you today as you consider my nomination to be an Associate Judge of the District of Columbia Court of Appeals. I thank you and your tireless staff for holding this hearing.

Thank you to the Judicial Nomination Commission (JNC) and its Chair, Judge Emmet Sullivan, for recommending me to the White House.

I thank President Joseph Biden for nominating me. I was extremely grateful when I was first nominated in 2020, and I am honored to have been nominated again this year.

¹ The prepared statement of Ms. Shanker appears in the Appendix on page 34.

Of course, I am grateful to Chief Judge Blackburne Rigsby and the Associate Judges of the D.C. Court of Appeals. I would be honored to join them in their service to the people of the District.

I can go no further without recognizing my true partner in life, Dee Martin. Dee has been such a support to me throughout this process and also happens to be a phenomenal attorney in her own right. For over 20 years, Dee and I have supported each other in all of our endeavors, perhaps none of which is more important than the raising of our amazing daughter, who has made us proud every day of her 14 years.

Thank you to my wonderful parents, who, unfortunately, could not travel to be here today. They came to this country with little money and no support, settled in Ohio, and worked tirelessly with the single goal of providing my sisters and me with every opportunity they could.

Thank you also to my sisters, brother-in-law, and niece, and to my wife's family, who welcomed me into their lives the very first day I met them.

There is not enough time today to thank all the people who have supported me in my professional life, but I must name two: the Honorable Chester J. Straub, for whom I had the privilege to serve as a law clerk, and Patty Merkamp Stemler, my boss for most of the past 17 years, who is here today. They both truly epitomize public service.

For almost two decades, it has been my privilege to serve the Nation as a career attorney in the Department of Justice. In that time, I have gained a deep understanding of appellate law and practice, having argued almost 60 cases and having appeared in every Federal Court of Appeals with criminal jurisdiction. I have been trusted with some of the Department's most challenging cases across subject matter areas and have been honored with the Department's John Marshall Award for the handling of appeals.

Before joining the Department, I had a broad-based litigation practice at two national law firms where I gained valuable experience in civil, administrative, antitrust, and criminal law. As I mentioned, I also had the great fortune to begin my legal career as a law clerk to Judge Chester Straub on the United States Court of Appeals for the Second Circuit, where I learned about the value of preparation, meticulousness, civility, and collegiality.

Public service is a passion to me, and if I am fortunate enough to be confirmed, I commit to ensuring that every party appearing before me is heard, respected, and given the opportunity to meaningfully participate in the judicial process, to applying the law impartially, and to striving every day to earn the respect of my colleagues and my community.

Thank you again for the opportunity to appear before you today. I look forward to your questions.

Chairman PETERS. Thank you, Mr. Shanker.

Our next nominee is Laura Crane. Ms. Crane has served as the Assistant United States Attorney at the U.S. Attorney's Office for the District of Columbia since 2014 and is a Deputy Chief in the Violent Crimes and Narcotics Trafficking Section. Ms. Crane supervises handling the investigation and prosecution of complex Federal cases targeting violence and narcotics trafficking in the Dis-

trict. She also prosecuted violent criminal matters in the Superior Court of the District of Columbia.

Prior to joining the U.S. Attorney's Office, Ms. Crane served as the Senior Associate and Litigation Associate in private practice, where she received an award in recognition for our outstanding pro bono service from the Legal Aid Society.

Ms. Crane, welcome to our Committee. You may proceed with your opening remarks.

TESTIMONY OF LAURA E. CRANE,¹ NOMINATED TO BE ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Ms. CRANE. Thank you. Mr. Chairman and Members of the Committee, it is an honor and privilege to be here today. I am grateful for the opportunity to appear before you as you consider my nomination for Associate Judge of the Superior Court for the District of Columbia.

There are many people I would like to thank today. First, I extend my thanks to each of the Members of the Committee and to the committee staff for considering my application. I further extend my appreciation to the Judicial Nomination Commission and its Chair, Emmet G. Sullivan, for their service on the Commission.

I extend my humble thank you to President Biden for nominating me to serve the people of the District of Columbia in this capacity.

I struggle to find words to express my deep appreciation for the support of my colleagues, family, and friends, many of whom are here today, who have been supporting me throughout this journey.

In particular, I want to thank the current and former leadership of the United States Attorney's Office for the District of Columbia, where I have had the privilege of working for the past eight years. This includes the current U.S. Attorney, Matt Graves, as well as former U.S. Attorneys, Ron Machen, Vince Cohen, Channing Phillips, and Jessie Liu. I also thank my colleagues from the U.S. Attorney's Office, who I have learned so much from.

I reserve special thanks for my friends and family, who have supported me throughout this process and in the many years leading up to this. My parents, Pat and Carol, are here today. They traveled here from Upstate New York to extend their unfaltering support that they have provided me throughout my life. Without that support, I have no doubt I would not be sitting here before you today. My parents worked tirelessly to support their children and have served as an example of hard work, kindness, respect, and humility.

My brother, Andrew Crane, and my sister-in-law, Yaara, are also here today, both of whom have dedicated their careers to public service as an attorney and as an educator.

I moved to the District of Columbia after graduating from Washington University School of Law in St. Louis. I had an opportunity to begin my legal career alongside the dedicated and accomplished public servants at the Department of Justice where I worked on

¹The prepared statement of Ms. Crane appears in the Appendix on page 75.

cases seeking to ensure that individuals with disabilities were receiving services in integrated settings.

After briefly moving to New York City to work in private practice, I returned to the District for a clerkship with Judge James E. Boasberg of the U.S. District Court for the District of Columbia. During my clerkship, I spent countless hours observing court proceedings and hoped that one day I would have an opportunity to practice like the advocates who appeared before Judge Boasberg.

That dream became a reality when I joined the U.S. Attorney's Office, where I have had the privilege of serving the citizens of the District of Columbia in both Superior Court and District Court for the past eight years, trying 60 cases and working on over 100 investigations. Since joining the U.S. Attorney's Office, I have appeared in court on a daily or near daily basis and observed firsthand the qualities that make for an exceptional judge: humility, hard work, and the application of the law to the facts without favor or bias. If given the opportunity to serve on the bench, I will honor these principles.

Thank you again for considering my nomination, and I look forward to answering any questions you might have.

Chairman PETERS. Thank you, Ms. Crane.

We will take a break from hearing from our wonderful nominees for the Court to hear from our colleague, Shelley Capito from West Virginia.

Senator Capito, you may introduce one of our nominees.

**OPENING STATEMENT OF THE HONORABLE SHELLEY CAPITO,
A UNITED STATES SENATOR FROM THE STATE OF WEST
VIRGINIA**

Senator CAPITO. Yes, this is a real pleasure for me, and I want to thank the Chairman and Ranking Member Lankford for allowing me to be here to talk about somebody I have great admiration for.

The National Archives is a treasured institution because it houses so many of our nation's treasures. The Archives and the men and women there are the caretakers not just of the objects and the documents but of the ideas and the inspirations that emanate from them. The mission of the Archives is not just to preserve our history but to educate and inform our future.

I am here today to introduce to you a friend of mine, Dr. Colleen Shogan. She is the nominee to be the Archivist of the United States, and I believe her to be a person who will honor that past while leading the institution into the future. I have known Colleen in a personal and professional way for several years, and I am here to speak of her qualifications and background to fulfill the role to which she has been nominated.

She has a long career of public service, working in the Senate, at the Congressional Research Service (CRS), at the Library of Congress, and now the White House Historical Society. In addition to her professional experience, she is a published author. I would recommend her books. She is a mystery murder author. Very good, and very exciting to read because they are all on Capitol Hill.

But to me, her most notable accomplishment is that she is married to a West Virginian and a very good friend of mine, Rob Raffety, and that is actually how I got to meet Colleen.

I worked closely with Dr. Shogan a few years ago on an issue that is close to so many people's hearts here in Congress, and that is making reports written by the Congressional Research Service public to the American people. Transparency is something she is very dedicated to. The procedural and technological challenges of pulling this off were greater than folks really imagined, and it was the right thing to do. Now these reports that are paid for by the taxpayers are available to the taxpayers thanks to her hard work.

She has the knowledge, experience, energy, and depth of dedication to serve in this role. I believe she would serve it very well, and I am very happy today to introduce her to this Committee.

I did not see the Ranking Member down there, Senator Portman. We have talked about this, and I certainly am planning to vote for her when I get the chance. I thank all of you for the opportunity to have her here before you today.

Congratulations.

Ms. SHOGAN. Thank you, Senator.

Chairman PETERS. Thank you, Senator Capito. Thank you for joining us. Thank you for a wonderful introduction.

Senator CAPITO. Now I have to leave.

Chairman PETERS. We are glad we were able to have you come by and make the introduction.

Senator CAPITO. Thank you.

Chairman PETERS. Have a wonderful day.

Dr. Shogan, thank you for being here, and you may proceed with your opening remarks.

TESTIMONY OF COLLEEN J. SHOGAN, PH.D.,¹ NOMINATED TO BE ARCHIVIST OF THE UNITED STATES, NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Ms. SHOGAN. Thank you, Chairman Peters, Ranking Member Portman, and distinguished Members of the Committee. Good morning. My name is Dr. Colleen Shogan, and my nomination to serve as the 11th Archivist of the United States is indeed the honor of a lifetime. I am likewise humbled by the opportunity to serve as the first woman nominated in the role.

Before I continue, I would like to thank my husband, Rob, for being here today. He has consistently supported my career, and I know this will continue if I am confirmed as the Archivist.

My family, including my 89-year-old father watching today from western Pennsylvania and my brother watching from Texas, has been instrumental in my success.

I must admit, this committee room is quite familiar to me. Over 15 years ago, I attended meetings here as a congressional staffer. I never imagined that I would be sitting on this side of the dais for a confirmation hearing.

My passion for the American story started in the public high school I attended outside Pittsburgh, with engaging teachers who taught United States history and government. As a first generation

¹The prepared statement of Ms. Shogan appears in the Appendix on page 102.

college student in my family, I was fortunate enough to receive a first-class education which allowed me to explore the development and evolution of American ideas and institutions.

My reverence for democratic principles, ideals, and governance led me to a career that included positions in academia, Federal Government service, and nonprofit management. Following my service in the Senate, I spent over a decade directly supporting Congress as a senior leader at the Congressional Research Service and the Library of Congress. I also served as the Vice Chair of the Women's Suffrage Centennial Commission, which commemorated the anniversary of the 19th Amendment without partisanship.

These positions, including the one I hold today at the White House Historical Association, have instilled in me the tremendous value of nonpartisanship and access to trusted sources. I am confident that my years of experience in these unique roles have prepared me well to serve as the Archivist of the United States.

The National Archives and Records Administration, preserves the building blocks of our nation's democracy. NARA does this by enabling access to the government records which tell our national story in the words and images of the people who made history.

This is critical for several reasons. First, it provides citizens with answers about family heritage, military service, and governmental decisions. Citizen engagement with the Archives materials, online and in person, through our nationwide system of archival research rooms and Presidential libraries is a top priority for NARA.

The National Archives also provides researchers, historians, genealogists, educators, students, and other stakeholders with trusted information about our shared past. In my own research, I have benefited from examining NARA's records. As a political scientist, I strongly believe that we cannot understand our nation's present condition without a comprehensive understanding of the past that brought us here. Along with our other Federal cultural institutions, NARA secures the repository of knowledge that enables such understanding for scholars and citizens alike.

Additionally, the National Archives provides vital records management services and guidance to all three branches of government and is leading the governmentwide transition to electronic record-keeping.

Most importantly, NARA safeguards government records in public trust to enable citizens, such as veterans, to claim their rights to hold their government accountable and to participate in the civic process.

If confirmed, I will have many hills to climb in this position. I do not assume these challenges lightly. To succeed, we will need to find creative ways to become more efficient, to capitalize upon public-private partnerships, and to engage previously underserved communities in meaningful ways.

Of course, NARA must do this as technologies improve at a lightning speed. Government is not always considered nimble when it comes to innovation, but the National Archives can serve as a leader in its transition to its primarily digital future. This will require investing in the Archives talented workforce and making smart business decisions that will propel NARA forward.

In a private meditation, Abraham Lincoln likened the principles of the Declaration of Independence to the “apple of gold,” a phrase contained in the Book of Proverbs. Lincoln knew it was his task to move the Nation toward a “more perfect” realization of these principles. As the 250th anniversary of our country approaches, this hard work continues.

If confirmed, I look forward to sharing the treasured collection of the National Archives with all Americans. Thank you.

Chairman PETERS. Thank you, Dr. Shogan.

Our next nominee is Leslie Meek. Ms. Meek received her appointment as an Administrative Law Judge (ALJ) with the District of Columbia Office of Administrative Hearings in June 2014. Ms. Meek presides over cases involving rental housing, unemployment compensation, tax and revenue, D.C. Public Schools, the D.C. Taxicab Commission, and the Department of Consumer and Regulatory Affairs.

Before joining the Office of Administrative Hearings, Ms. Meek served as an Administrative Law Judge, an Appellate and Administrative Law Judge, with the District of Columbia Department of Employment Services Administrative Hearings Division. There, she adjudicated worker’s compensation cases for over eight years.

Ms. Meek, welcome to our Committee. You may proceed with your opening remarks.

TESTIMONY OF LESLIE A. MEEK,¹ NOMINATED TO BE ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Ms. MEEK. Thank you, Mr. Chairman. Good morning, Chairman Peters, Ranking Member Portman, and Members of the Committee. Thank you for your time and consideration of my nomination to serve as Associate Judge on the District of Columbia Superior Court. I am honored to be here.

I am also honored by President Joseph Biden’s nomination of me for the District of Columbia Superior Court, and I thank him for it.

I am thankful to the members of District of Columbia Judicial Nomination Commission and its Chair, Judge Emmet Sullivan, for recommending me to the White House.

I am thankful for the support of my family and friends and all of the love they share with me as I journey toward this endeavor. I am the proud mother of two wonderful adults, Lauren Meek, a burgeoning artist in New York City, and Kendrick Meek, Jr., a third-year law student at the University of Miami, Florida. Throughout this process, they have been tremendous motivators, with kind and generous encouragement. I could not have asked for better children or cheerleaders.

I am a first-generation American born to parents who immigrated to the United States from Jamaica. It was their intention to come to this country and live the American Dream, and I am the personification of those dreams.

My mother, Lois Eccleston-Capp, always gave me the space to aim high and the support to accomplish my goals. She is my heart,

¹ The prepared statement of Ms. Meek appears in the Appendix on page 131.

and I thank her for her enduring support, her prayers, and her faith in me.

I am thankful to my late grandmother, Lucille Butler-James, who did not have the privilege of attending college herself but seemingly every day of my young life impressed upon me the importance of an education.

I am thankful to my late father, Harold Dixon, who taught me by example how determination, focus, and industry can overcome obstacles.

I thank my late mother-in-law, former Congresswoman Carrie Meek, for all that she taught me, her friendship, and her love. Carrie frequently shared her philosophy, "To be a true public servant, you have to love people." Recalling this mantra reminds me that I am right on track.

I thank my dear friend, Oscar Wright, who has stood by me and supported me through this process.

I am currently an Administrative Law Judge with the District of Columbia Government. During the last 16 years, I have successfully served the District as both an Administrative Law Judge and Administrative Appeals Judge. In that time, I have adjudicated over 7,000 cases concerning a number of entities including the Department of Employment Services, Department of Health, Department of Public Works, Department of Energy and Environment, Department of Consumer and Regulatory Affairs, Office of Tax and Revenue, and the Department of Transportation.

My 16 years of adjudicatory experience has taught me the importance of maintaining a respectful and courteous judicial temperament, and should I be fortunate enough to be confirmed, I remain committed to humbly serving the District's residents with unbiased, sound, and efficient judicial review of the cases that come before me.

My legal career began when I was hired out of law school to serve as the prosecutor for the Miami-Dade State Attorney's Office. During that time, I prosecuted criminal cases in the county court. I then served as General Counsel to the United Teachers of Dade and served as a prosecuting attorney for the city of Miami and the State of Florida Comptroller's Office. In these positions, I litigated civil, and labor and employment law cases before administrative courts. These experiences honed my litigation skills and prepared me well for my position as a judge.

My professional experiences have given me a solid understanding of the role of adjudicator and the importance of ensuring that justice is applied fairly and impartially. I am eager to use my skills to serve the District of Columbia as a Superior Court Associate Judge, and I stand ready to answer any of your questions as you consider entrusting me with this very important position. Thank you.

Chairman PETERS. Thank you, Ms. Meek.

Today's final nominee is Veronica Sanchez. Ms. Sanchez is a Senior Assistant United States Attorney who has served for the past 11 years at the United States Attorney's Office in the District of Columbia. Currently, she is the Chief of the Major Crimes Section in the Superior Court of the District of Columbia. In her role, she oversees attorneys responsible for investigating and prosecuting

felony violent crimes in the Superior Court, including economic crimes.

Before serving as Chief of the Major Crimes Section, Ms. Sanchez investigated and prosecuted cases ranging from simple assault to homicides in the Superior Court. She also served as a Senior Assistant United States Attorney in the Fraud Section, focused on handling financial fraud matters in the U.S. District Court for the District of Columbia.

Ms. Sanchez, welcome to our Committee. You may proceed with your opening remarks.

TESTIMONY OF VERONICA M. SANCHEZ,¹ NOMINATED TO BE ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Ms. SANCHEZ. Good morning. Chairman Peters, Ranking Member Portman, and Members of the Committee, it is an honor and a privilege to appear before you as an nominee to be an Associate Judge for the Superior Court for the District of Columbia. I extend my thanks to each of you and your dedicated committee staff for all of the hard work that has gone into considering my nomination.

I would also like to thank the District of Columbia Judicial Nomination Commission and its Chair, the Honorable Emmet Sullivan, for recommending me to the White House, and I am thankful to President Joseph Biden for nominating me to this position.

I must also thank the current U.S. Attorney for the District of Columbia, Matthew Graves, and former U.S. Attorneys, Channing Phillips, Jessie Liu, Ronald Machen, and Vincent Cohen, for their support and guidance throughout my career as a prosecutor.

I also thank my current and former colleagues from the United States Attorney's Office. It is an honor to work with all of you.

I reserve special thanks for the people in my life who are here because they love and support me in my home, my work, and my community. My husband is here today. He is my best friend, my partner in life, and my biggest advocate. Thank you for your encouragement and support of all my personal and professional endeavors.

I want to take a moment to thank my two children for their patience and support during the times when they have had to share their time with me due to the demands of my job. I love you both.

My father is here today while my mother and my brother watch and support me from South Florida and Texas.

I was born in Nicaragua and was fortunate to come to the United States a few months before my eighth birthday. My parents came to this country seeking a better future for their children. I would not be here today without the many sacrifices made by my parents, who taught me through their words and their actions the values of hard work, integrity, fairness, and service.

I also want to thank the rest of my family and friends from all over the country for their support and prayers throughout this process.

I have dedicated my career to public service, hoping to give back to the country that has afforded me and so many others the oppor-

¹The prepared statement of Ms. Sanchez appears in the Appendix on page 157.

tunity to turn dreams into reality. I began my legal career by clerking for the Honorable Edward C. Reed of the United States District Court for the District of Nevada. I also had the honor of clerking for the Honorable Melvin Brunetti for the U.S. Court of Appeals for the Ninth Circuit.

I moved to the District of Columbia in 2002 after joining the Department of Justice Honors Program with the Antitrust Division. I spent six years as a trial attorney in the Antitrust Division, handling civil antitrust matters, prior to joining the U.S. Attorney's Office for the District of Columbia.

Since 2009, I have served as an Assistant United States Attorney at the U.S. Attorney's Office for the District of Columbia, where I have handled a wide range of criminal cases on behalf of the United States. I have handled over 20 trials in the Superior Court and have investigated and prosecuted misdemeanors, felonies, homicides, and fraud matters.

Throughout my legal career, I have sought to uphold the law and the values of fairness and justice. If I am confirmed, it will be both an honor and a privilege to continue to serve the residents of the District of Columbia as an Associate Judge on the Superior Court.

Thank you again for the opportunity to appear before you. I look forward to answering your questions.

Chairman PETERS. Thank you, Ms. Sanchez.

There are three questions that the Committee asks of every nominee, and I am going to ask each of you to respond briefly with just a yes or no. Dr. Shogan, we will start with you, and then we will work down the table for each of these questions.

First, is there anything you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Ms. SHOGAN. No.

Mr. SHANKER. No.

Ms. CRANE. No.

Ms. MEEK. No.

Ms. SANCHEZ. No.

Chairman PETERS. Second, do you know of anything personal or otherwise that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Ms. SHOGAN. No.

Mr. SHANKER. No.

Ms. CRANE. No.

Ms. MEEK. No.

Ms. SANCHEZ. No.

Chairman PETERS. Lastly, do you agree, without reservation, to comply with any request or summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Ms. SHOGAN. Yes.

Mr. SHANKER. Yes.

Ms. CRANE. Yes.

Ms. MEEK. Yes.

Ms. SANCHEZ. Yes.

Chairman PETERS. Great. Thank you.

Dr. Shogan, you have a big job ahead of you, and I think it is important for the Committee to hear from you. How do you view the role of NARA in ensuring compliance with records laws, the several records laws that we have across the Federal Government?

Ms. SHOGAN. Thank you, Mr. Chairman, for that question. The National Archives leads the Federal Government in the records retention, policies, and procedures, and in particular, relies upon Federal agencies that supply those records to provide the National Archives with paper records at this point in time and, in the future, digital records so that the repository of our nation's story can be complete.

Chairman PETERS. As Archivist, what specifically do you plan to do to improve the Federal records preservation process that we currently have?

Ms. SHOGAN. Yes. Thank you, Mr. Chairman, for that question. I think the major challenge for the National Archives going forward will be the transition from a primarily analog or paper repository to a primarily digital repository. When that does happen, when the records start to come from Federal agencies in that digital format, not the analog format, there is going to have to be a lot of work and communication with Federal agencies so that those records come to the National Archives in the right format and with the right information and descriptive data so that the records can be useful and available to the American people.

Chairman PETERS. Clearly, a big undertaking to make those kinds of changes, plus to go back and digitize an awful lot of records that have already been placed there in a paper format. Do you believe that NARA has the resources it needs to meet this challenge, and specifically, what sort of technological needs do you anticipate requesting in the future?

Ms. SHOGAN. Thank you, Mr. Chairman, for that question. I think the resources at the National Archives can be a challenge. Of course, all Federal agencies have to work efficiently and effectively. Given the big tasks that are ahead for the National Archives, if I am confirmed as Archivist of the United States, I plan to support a set of very common-sense proposals that will enable the National Archives to transition into its digital future.

As I understand it, right now, Mr. Chairman, there is the development of a new technology system that will enable the receipt of all digital records. That is both born digital records and records that have been digitized. That technology system, I can say, is being built in an iterative way, called "Agile development," and I was very happy when I heard that because that means that it can be built in a step-by-step process. Of course, if I am confirmed as Archivist of the United States, I look forward to working with the development of that information technology (IT) system so it can be really the guidepost for NARA's future.

Chairman PETERS. As I mentioned in my opening comments, veterans' record requests are high. There is a huge backlog, and we certainly owe the men and women who have served us with honor and distinction the ability to get those records in a timely way to access benefits that they have earned and other needs for those records. As Archivist, how do you plan to work to reduce this con-

siderable backlog? Tell the Committee how you view this as a priority if confirmed.

Ms. SHOGAN. Yes. Thank you, Mr. Chairman, for that question. I view this as the most important discrete problem facing me if I am confirmed as Archivist of the United States. The backlog has been reduced considerably, down from 600,000 requests down to about 440,000 requests. This issue is very personal for me. I have many veterans in my family, so I understand its importance.

I also know that the staff at the National Personnel Record Center (NPRC) in St. Louis has been working tirelessly since March to reduce this backlog. If I am confirmed as Archivist of the United States, it will be my priority after confirmation to make a trip to St. Louis. It would be my first trip as Archivist of the United States. I want to get there, on the ground, meet the leadership, of course, of the NPRC, meet the talented staff of the NPRC, and come up with a sensible plan of how we can reduce this backlog at a faster pace.

Chairman PETERS. Great. Dr. Shogan, do you believe that NARA has a role in promoting government transparency and public access of records?

Ms. SHOGAN. Thank you for that question, Mr. Chairman. Yes, I do.

Chairman PETERS. What will you do as an Archivist to improve public access?

Ms. SHOGAN. Thank you for that question. I think that transparency and access is really intertwined with digital. You can access the records at the National Archives in a number of ways. First, you can come and visit the National Archives here in Washington, DC. to view our founding documents and see some of the records in person. If you are a researcher, you can visit one of the over 30 archival research rooms all across the United States and engage the records in a very meaningful way. But most Americans are probably going to interact with the records of the National Archives through digital means, online through the Archives catalog, and so that is why the digital future is extraordinarily important for the National Archives.

Right now, there is about 200 million digitized copies of records in the catalog, which makes it the largest digital archive in the world. As I understand it, the Archives is planning to go to 500 million digital copies by 2026, and if I am confirmed, I want to make sure we hit that mark and hopefully exceed it.

Chairman PETERS. Right. Thank you, Dr. Shogan, for your responses.

Ranking Member Portman, you are recognized for your questions.

OPENING STATEMENT OF SENATOR PORTMAN

He has deferred; our Acting Ranking Member has deferred to the Ranking Member because we understand you are on a tight schedule, so Senator Lankford is being very gracious.

Senator PORTMAN. First, I want to thank you, Chairman, and thank you, Senator Lankford, for agreeing to be Ranking Member today. It has been my practice because Senator Lankford is the Chair of the Subcommittee on D.C. so I defer to him with regard

to these D.C. judge confirmation hearings. I do think these roles need to be filled, and I thank the four distinguished lawyers before us this morning who have stepped forward to fill those roles.

I normally ask questions about the criminal justice system in D.C. because the crime wave is a huge concern of all of ours, and I will not have time to get into that today but just assume that all four of you agree that part of your role is to assure that cases are brought and handled and backlogs are dealt with so that we can have a safer D.C. community.

Dr. Shogan, I want to give you a chance to explain some of your previous statements and some of your record. The law, as you know, requires the Archivist to be appointed without regard to political affiliation. In 2007, you wrote an article entitled "Anti-intellectualism in the Modern Presidency: A Republican Populism," which focuses on Presidents Eisenhower, Reagan, and George W. Bush. In it, you state that "Republicans tend to exhibit anti-intellectual qualities, and Democrats coalesce on the intellectual tail of the continuum." Would you please explain your views on this and what you meant by that?

Ms. SHOGAN. Thank you, Ranking Member Portman, for that question. As you stated, that article was written 16, 17 years ago. It was an academic article, and in that article I was trying to explain how certain Presidents, very effectively, through their rhetoric, were able to communicate with everyday Americans.

Senator PORTMAN. Again, you are being nominated as a non-partisan national Archivist. Among other roles, the National Archives and Records Administration administers the Presidential Library System for Republican and Democrat Presidents alike. Given that you have written about some of these Republican Presidents in a negative way, for example, saying that Ronald Reagan had "less than impressive intellectual capabilities" and that "it was widely accepted that George W. Bush was less intelligent than his challenger, Al Gore," how can we be assured that you will serve effectively in this nonpartisan role?

Ms. SHOGAN. Thank you, Ranking Member Portman, for that question. I stand strongly on my 15 years of nonpartisan government service at the Congressional Research Service, at the Library of Congress, and at the White House Historical Association, which I joined in 2019 when President Trump was President of the United States, worked very effectively with President Trump's White House as he served as President of the United States and continue to do so under President Biden's administration. Also, at the White House Historical Association, we have members of the board who are representatives from both Republican and Democratic administrations, and I work very effectively with that board of directors.

Senator PORTMAN. With regard to January 6th, in response to a tweet from a political science professor, which stated "Political science said this would happen. We are not smug about it either," you tweeted back, and I quote, "I wrote about it in 2007. I do believe what I observed was the precursor," and you included a link to the Republican anti-intellectualism article that we talked about a moment ago.

I want to give you a chance to explain this. It would appear to me that you are saying that because you believe Republican Presidents, like George W. Bush, for whom I worked, as you know, tended to exhibit anti-intellectual qualities and/or because you believe he was less intelligent than his opponent, Al Gore, that these were the precursor somehow to the events of January 6th, which of course George W. Bush condemned in the strongest terms possible.

Ms. SHOGAN. Thank you, Ranking Member Portman, for that question. In no way, shape, or possible, do I think that President Bush is inferior intellectually or less intelligent. That was not the purpose of the article. It is not stated in the article. I was very clear that he was well suited for the presidency, and that is stated in the article.

Senator PORTMAN. OK. The quote that I have that says it was widely accepted that Bush was less intelligent than his challenger, Al Gore, was not your quote?

Ms. SHOGAN. Thank you for the question, Ranking Member Portman. That was a characterization, but once again I want to say that I stand by my statement that this was an article about President Bush and his rhetorical abilities to be able to communicate common-sense principles to everyday Americans.

Senator PORTMAN. OK. You do have a lot of tweets about President Trump. You mentioned that you served under him, essentially, when you were at the Historical Association. Here is one on January 5, 2020, which says, "Isn't the next move a self-pardon?" Self-pardon would imply criminality. If confirmed, you would have to work with the former President's staff, and how can you be confident that you would be able to work effectively with former President Trump's staff?

Ms. SHOGAN. Thank you for that question, Ranking Member Portman. I am confident that I would be able to work with President Trump and his staff. I have worked with him in the past, as you noted, at the White House Historical Association, also in my capacity as the Vice Chair of the Women's Suffrage Centennial Commission, which was entirely conducted during the Trump presidency, and we worked very effectively with President Trump, Mrs. Trump, and the White House during that celebration to, I think, really benefit the American people.

Senator PORTMAN. Dr. Shogan, there was a January 2020 memo from the Trump Justice Department Office of Legal Counsel, which concluded that the Equal Rights Amendment's adoption could not be certified because not enough States had ratified the amendment prior to the relevant deadline set by Congress. Shortly thereafter, a National Archives press release stated that the Archivist defers to the OLC on this issue and would abide by the opinion unless otherwise directed by a final court order.

A January 2022 OLC memo by the Biden Justice Department stated that Congress was entitled to take a different view on that but did not modify the conclusion of the January 2020 memo.

If confirmed, would you continue to abide by the January 2020 OLC opinion as your predecessor did?

Ms. SHOGAN. Yes. Thank you for that question, Senator. Yes, I would.

Senator PORTMAN. As the National Archives press release stated, would a court order ordering you to certify the amendment be the only circumstances under which you would certify the amendment?

Ms. SHOGAN. Yes. Thank you for that question. Who will decide the fate of the ERA is the Federal Judiciary and/or Congress.

Senator PORTMAN. There are Members of Congress and interest groups who believe the Archivist has the authority to certify the Equal Rights Amendment. I am sure you are well aware of that. How would you respond to their calls to certify the amendment?

Ms. SHOGAN. Yes. Thank you for that question. The Archivist serves in the capacity in a nonpartisan, apolitical capacity, and I vow, if I am confirmed as Archivist, to serve in that fashion.

Senator PORTMAN. Thank you, Dr. Shogan.

Thank you, Mr. Chair.

Chairman PETERS. Thank you, Ranking Member Portman.

Acting Ranking Member, Senator Lankford, you are recognized for your questions.

Senator LANKFORD. Thank you. Just the fill-in guy today on this one as well.

Ranking Member Portman, thank you for your leadership on the Committee as well.

Mr. Chairman, thank you for the hearing, and again thank you to all the witnesses today for the process.

I do want to follow up what Ranking Member Portman was talking about on the Equal Rights Amendment. Dr. Shogan, during your process in your consideration as a nominee, did anyone from the Biden administration ask you about your stand on the ERA, what your position was on that, in the approval process, and if so, what was that conversation?

Ms. SHOGAN. Thank you, Senator, for that question. I was not asked that question during the process.

Senator LANKFORD. OK. Thank you. Thank you for your very clear statements, both to our staff in writing and to Senator Portman, that the issue with ERA is settled by the Federal Courts or by Congress, not by the "Arch I vist," or the "Ar-chi-vist" as you say, either way. We want to make that very clear because obviously there are Members of Congress that I have disagreed with on that.

The previous Archivist disagreed and said, no, this is not the role of the Archivist to unilaterally make that decision. You have obviously agreed with that publically, and I appreciate your engagement on that.

You and I have spoken before about a warning label that is currently on our founding documents, that is actually on every document that is digitized in the National Archives, and the consideration. It warns Americans or anyone reading our documents that there is potentially harmful content, that this content could be offensive to individuals. Whether it is the United States Constitution or whether it is autopsy photos from World War II, it does not matter. Everything has that warning piece on that banner, on it.

My question to you in our conversation was I do not want it to be misunderstood in any way that the National Archives could consider the United States Constitution a potentially offensive document, which clearly it is a founding document. It is not offensive. There are bits of our history that all of us as Americans look back

on and are embarrassed who we were as Americans and decisions that we have made. We do not always get it right over our history, but we are working to make a more perfect union. But, all of our history is our history.

The important thing to me is there is never a warning on a single document and that we reconsider labeling some of our documents offensive when they are just our history on this.

As you and I have spoken about this before, my challenge is to be able to review that warning, to be able to determine what is the best way to be able to do it, what is appropriate to be able to get to parents, to say if your children are looking at all these things, there are photos that are gruesome photos from World War II, for instance, or the battlefield in the Civil War, that are painful to be able to view, especially as a child, but there is also important national documents that are here.

How do you plan to be able to handle this offensive label and this warning?

Ms. SHOGAN. Senator, thank you for that question. You are correct. When there is a search done in the Archives, the online Archives catalog, there is language that makes users aware that they may inadvertently come across content that could be difficult to view.

As we talked about yesterday in your office, I am primarily concerned about if I am confirmed as Archivist I want more teachers and students to use the National Archives. If you have to do a history project on World War II or World War I, we want you to come to the National Archives and use that catalog to find those primary sources.

As you know, kids are excellent searchers today. They are better searchers than we are. When they look for those relevant documents, they could easily jump to something else inadvertently, and so that is why that language is there.

But as we talked about yesterday, I am absolutely willing to come and talk to you about that language, and we can review it together and move forward.

Senator LANKFORD. OK. Thank you. As you and I both know, being around teenagers, all you have to do is put a warning that this could be offensive and that makes them search it more, as you also know. That is another issue we need to evaluate and just evaluate what the effectiveness of this is, to have a warning label on it, if that is really accomplishing anything on it other than just being a distraction.

You and I also spoke about the raid that happened in Mar a Lago, former President Trump's private residence, and going through those documents. In an unusual situation, it was not just the FBI carrying out the raid, but it was the request of the National Archives to be able to engage with these records that then triggered something with the FBI.

Typically, this would be a voluntary conversation. It is my understanding that you had dialog with our staff, to say, all your preference is if any disagreements on this document this should be a voluntary conversation rather than a legal conversation or a raid. A raid of a former President's house is unprecedented, and it puts

the entire process on full display to be able to say, how does this happen, why does this happen. Everyone gets questions on it.

My first question is: Should this be a voluntary cooperation rather than a legal raid with a search warrant, coming into a private residence?

Ms. SHOGAN. Thank you, Senator, for that question. I want to be clear that as the nominee for this position I have not been briefed on any of the details of what has happened, so I have no information about those decisions or the sequence of events.

But as I understand it, when there is some concern about missing or damaged records in general at the National Archives, at that point in time, to retrieve the records, there is a voluntary exchange of communication with those individuals. As I understand it—once again, I do not have any past knowledge of this—the vast majority of the time the records are recovered and retrieved.

Senator LANKFORD. All right. This is unprecedented for a former President, obviously, to be able to go through this. The reason I ask you is because that has now set a new precedent that going forward this is going to be the new standard for every President after this, and so this starts a very process that we are trying to evaluate.

The second part of my question on this is the National Archives, the keeper of all records on this. Now the e-mail chains, the conversations, any notes that were done for the National Archives in their communication with the FBI about this now become national historical records and are not only important to be able to maintain and to be able to protect but also for the visibility of this Committee as well.

It is the reason that Senator Scott and I both reached out to this Committee, to be able to say we need to be able to talk about this because there was something entirely new that was just created by the National Archives and the FBI in searching a former President's house.

Will you agree to, in the future, making records available at the National Archives to be able to show what the process was and the decisionmaking was, to be able to reach the point to have greater transparency for the American people?

Ms. SHOGAN. Yes. Thank you, Senator, for that question. Yes, I believe that transparency with this Committee. I want to be responsive to requests if I am confirmed as Archivist of the United States. Once again, I do want to state I do not know—

Senator LANKFORD. Right.

Ms. SHOGAN [continuing]. Where we are in this Department of Justice law enforcement process, but as a general statement, Senator, you have my commitment that I will work with you and Members of this Committee to be as transparent as possible. Thank you.

Senator LANKFORD. Thank you.

Thank you, Mr. Chairman.

Chairman PETERS. Thank you, Senator Lankford.

Senator Hawley, you are recognized for your questions.

OPENING STATEMENT OF SENATOR HAWLEY

Senator HAWLEY. Thank you very much, Mr. Chairman.

Let me start with you, Ms. Shogan, if I could. You have talked throughout today's hearing so far and in your prehearing Q&A about how much it is important to be a nonpartisan leader. Is that correct?

Ms. SHOGAN. Yes, Senator.

Senator HAWLEY. If you are confirmed, you will attempt to stay politically neutral in your decisionmaking. Is that fair to say?

Ms. SHOGAN. Yes, Senator.

Senator HAWLEY. Or a characterization of your views, I should say.

Ms. SHOGAN. Yes.

Senator HAWLEY. I was troubled, I have to say, by this article that you wrote that Senator Portman asked you about a minute ago, published by the American Political Science Association. I have it here: "Anti-intellectualism in the Modern Presidency: Republican Populism," published in June 2007. Do you consider this piece to be nonpartisan?

Ms. SHOGAN. Thank you, Senator, for that question. I consider it to be an academic article, a publication of 16, 17 years ago, a scholarly piece.

Senator HAWLEY. Yes, let us dig into it a little bit. You write in your paper that to combat allegations of elitism, recent Republican Presidents have adopted anti-intellectualism. How would you define intellectualism?

Ms. SHOGAN. Thank you, Senator, for that question. The ability to speak in very plain, common-sense terms to Americans.

Senator HAWLEY. So you say recent Republican Presidents, but your case studies are Dwight Eisenhower and Ronald Reagan and then coming up, I think, to George W. Bush. What is the point here?

I mean, you say at one point, "Republicans tend to exhibit anti-intellectual qualities . . . Democrats," on the other hand, "coalesce on the intellectual tail of the continuum." So is the point that Republicans are stupid and Democrats are intellectual?

Ms. SHOGAN. Thank you, Senator, for that question. Absolutely not. The point of the article that the Presidents that I featured in it have a rhetorical connection with the American people.

Senator HAWLEY. A rhetorical connection that you say is anti-intellectual, and you feature every two-term Republican President going back to Dwight Eisenhower.

Ms. SHOGAN. Yes, Senator. I think it is a piece on rhetoric, and it is really looking at how these Presidents have been successful rhetorically in their arguments.

Senator HAWLEY. Interesting. It is a piece on rhetoric, but you attribute part of the anti-intellectualism of the Republican Party to, in your words, the rise of the religious right. Tell me about that. Is it because those voters are stupid?

Ms. SHOGAN. Thank you, Senator, for that question. Absolutely not. If I am confirmed as Archivist of the United States, I look forward to welcoming all Americans to the National Archives.

Senator HAWLEY. Do you think that people who voted for Donald Trump are anti-intellectual?

Ms. SHOGAN. Thank you, Senator. I would not make any judgment on the people who voted for President Trump or any other President.

Senator HAWLEY. So you do not think the people who voted for Dwight Eisenhower, Ronald Reagan, or George W. Bush, they were not anti-intellectual. The anti-intellectual rhetoric just appealed to them because what? What is your theory?

Ms. SHOGAN. Thank you, Senator, for that question. As I said, Presidents are able to speak in common-sense, plain terms to Americans that they understand.

Senator HAWLEY. You characterize President Reagan as having, quote, "less than impressive intellectual capacities." You said Presidents Eisenhower and Bush were decidedly intellectual. You said Reagan engaged in intellectual posturing.

Let us just start with the first one, less than impressive intellectual capacities. In other words, is dumb?

Ms. SHOGAN. Thank you, Senator. Absolutely not. That was a perception, and it was cited.

Senator HAWLEY. I am sorry. It is a perception by whom? By you? You wrote about it.

Ms. SHOGAN. No, Senator. As I said, in the article, that is a perception. But actually, in the article, because—

Senator HAWLEY. You say Reagan is less than impressive intellectual capacities have been widely discussed. That is presented as a factual statement. You do not even cite for it. This is on page 298. I have your article. Do not dissemble in front of me.

So, Reagan's less than impressive intellectual capacities have been widely discussed. You are not saying that he had less than—that is not your view?

Ms. SHOGAN. Thank you, Senator. It is not my view.

Senator HAWLEY. Why did you write it?

Ms. SHOGAN. Thank you, Senator. That is not my view. My view was focused on his rhetorical capabilities.

Senator HAWLEY. That is not what your sentence says. Listen, you wrote an article saying, basically, that Republican voters are stupid, that Republican Presidents deliberately appeal to anti-intellectualism. You roll it all up in this thing called Republican populism, yet you are trying to present yourself here as a nonpartisan.

In fact, you are an extreme partisan, and your record shows that. You are someone who has denigrated Republican Presidents, every two-term Republican President, I think. I hope I am not leaving anybody out—since the Second World War and their voters in this lengthy article.

I do not understand. If you wrote it, why won't you stand behind it?

Ms. SHOGAN. Thank you, Senator. I will stand by my long experience, over 15 years, of nonpartisan service.

Senator HAWLEY. This is not just a theoretical set of questions because, as you know, we have seen what happens when you have political activists in the position that you are up for confirmation for and we are living through that as a nation right now. We are living through the political weaponization, of the National Archives, the political weaponization of the Department of Justice,

the political weaponization of the FBI, such that half of the people of this country cannot trust those institutions.

We are living with a President who calls half the voters of this country semi fascist, who have said that they are a threat to democracy. This is an elected American President who makes these outrageous statements.

In that environment, frankly, to have you up for confirmation for this position, which has become very politically charged in a way I lament—it should not have been, but unfortunately, the past Archivists have done what they have done. The FBI has done what it is has done. DOJ has done what they have done.

Here you are talking about the anti intellectualism and, frankly, stupidity of American voters. I mean, if that is not playing to type, I do not know what the world is. It is basically a self-parody.

How can you assure me or anybody watching this hearing, the millions of Americans, 75 million Americans who voted for a Republican in the last election, how can you assure them that you will be truly nonpartisan given what you have said over a period of years?

Ms. SHOGAN. Thank you, Senator. I stand by my record of non-partisan service at the Congressional Research Service, the Library of Congress, and at the White House Historical Association, and I invite anybody to talk to the people that I have worked with for years in my nonpartisan government service.

Senator HAWLEY. Mr. Chairman, without objection, I would like to enter this article,¹ “Anti-intellectualism in the Modern Presidency: Republican Populism.” I would like to enter it in the record.

Chairman PETERS. Without objection.

Senator HAWLEY. I would invite everybody to read this. You can read the words for yourselves. You can read the entire article for yourselves, and folks can make up their own minds. I think when they do, they will be really disappointed. I am deeply disappointed.

Thank you, Mr. Chairman.

Chairman PETERS. Thank you, Senator Hawley.

Senator Ossoff, you are recognized for your questions.

OPENING STATEMENT OF SENATOR OSSOFF

Senator OSSOFF. Thank you, Mr. Chairman. Mr. Chairman, I know you touched on this issue a moment ago.

I want to raise it again with you, Dr. Shogan. That is the backlog in military service records. Veterans across Georgia, across the country are deeply frustrated by the interminable delays accessing their military records. They need these records for their VA health care benefits. They need these records for their employment and educational benefits.

I introduced last week the bipartisan Access for Veterans to Records Act to try to address this backlog so that veterans in Georgia and across the country can access their records.

If confirmed, will you commit to working with me to eliminate the backlog of military service records requests at NPRC and not just to working with me but to putting it at the very top of your agenda?

¹ The article submitted by Senator Hawley appears in the Appendix on page 183.

Ms. SHOGAN. Yes. Thank you, Senator, for that question. It is at the very top of my agenda if I am confirmed as Archivist of the United States. In fact, if I am confirmed as Archivist of the United States, I will make my first trip as Archivist of the United States to St. Louis to the NPRC so I can meet once again with the leadership there and the hardworking staff that are attempting to reduce the backlog. There has been great progress made thus far, and I look forward to finding creative solutions within Federal law and regulations in order to reduce that backlog at a faster pace.

Senator OSSOFF. I appreciate that commitment, Dr. Shogan, and making that commitment here today will mean a lot to veterans in Georgia, who, frankly, are skeptical after years of dealing with this that there can be a change. But there must be a change. Veterans deserve timely access to their records.

I am going to ask for a further commitment, which is that once you have had the opportunity to meet again with the folks at the NPRC and to get your bearings in your first four or five weeks in office, should you be confirmed, that you will timely submit to this Committee your assessment of the drivers of this backlog and a specific plan to eliminate it. Will you make that commitment?

Ms. SHOGAN. Yes. Thank you, Senator. I am willing to make that commitment. I will make myself available, what I have learned.

And a further comment on that, I mean, obviously, the first thing that has to be done, if I am confirmed as Archivist, is removing the backlog. But there has to be a second step, which is to make sure that backlog is not created in future circumstances. We hope that the pandemic is over, but we can never predict what is coming down the road in the future.

I believe there has been great progress by the Department of Veterans Affairs in moving to digitize those records in a timely fashion and in a reasonable priority. Once those records are digitized and placed in the Cloud, then NPRC staff will be able to access them, and I think the requests will be processed much faster in the future. I think there is a good end to this story if we can get there.

Senator OSSOFF. Thank you, Dr. Shogan. I understand there is also a backlog of immigration-related record requests known as A-Files managed by NARA. Are you familiar with this?

Ms. SHOGAN. Yes, Senator, I am, in a briefing document. I am not intimately familiar, but I am aware of it.

Senator OSSOFF. OK. I am going to ask as well that—and we can have our teams work together to define a specific deadline for this, but that should you be confirmed, similarly, once you have had the opportunity to assess in detail the nature of that challenge, that you will submit to the Committee a proposal for addressing that backlog. Will you make that commitment?

Ms. SHOGAN. Yes. Thank you, Senator. I am willing to follow up and make that commitment.

Senator OSSOFF. I appreciate that. You, of course, are familiar with this from some of your past work, but you will have some cybersecurity challenges to manage, should you be confirmed, particularly as more records are digitized. How are you thinking about handling the threats to cybersecurity that will present themselves at the National Archives?

Ms. SHOGAN. Thank you for that question. I am aware that there has been an Inspector General report for the National Archives concerning cybersecurity, and I would plan to review that report and find out firsthand what is being done to address those issues or concerns in a timely fashion.

Senator OSSOFF. OK. I know that the Chairman and Members of this Committee are deeply concerned with cybersecurity for Federal agencies. Please let us know what resources or authorities may be helpful, should you be confirmed, for that mission.

Finally, I want to bring to your attention something that is of deep and particular concern to my constituents in Georgia and of particular concern across the American South, and that is the disposition of civil rights cold cases: the lynchings, the murders, the abductions that took place in the Jim Crow era and before in the State of Georgia and across the South, for which there has never been justice, and the descendants of those who were murdered who are still crying out for justice.

I have introduced the bipartisan Civil Rights Cold Case Records Investigations Support Act, and I would like your commitment to work with my office, to work with that Cold Case Records Review Board, to make every resource at NARA available to pursue the truth and to pursue justice for those who were lynched, for those who were abducted, for those who were assaulted in the State of Georgia, across the South, and across the country, and ensure that our quest for justice is not abandoned. Will you make that commitment?

Ms. SHOGAN. Yes, Senator, I look forward to working with you and your staff on this issue if I am confirmed.

Senator OSSOFF. Thank you, Dr. Shogan. It is really important.

I appreciate your testimony today. I appreciate the rest of the panel. Congratulations for the nominations.

I yield.

Chairman PETERS. Thank you, Senator Ossoff.

This question is for all of our judicial candidates. I think we will start at—our nominees, I should say. We will start with Ms. Sanchez, and then we will work down to Mr. Shanker.

The D.C. Courts handle a very high volume of cases, and vacancies on both the Superior Court and Court of Appeals have, without question, increased this backlog considerably. So my question for each of you is: If confirmed, how will you manage your caseload efficiently while also ensuring that everybody who comes before you has a meaningful opportunity to be heard?

Ms. Sanchez, we will start with you.

Ms. SANCHEZ. Thank you for the question, Senator. As an Assistant United States Attorney, I have had a lot of experience handling large-volume caseload. If I am confirmed as a judge, I would ensure that the parties know the expectations at each status hearing, I would ensure that I am prepared, and I would ensure that I am listening to everything that the parties are saying and reading what they file and also ensure that I reach reasoned decisions with diligence.

Chairman PETERS. Very good.

Ms. MEEK. Thank you, Senator. I agree with my co nominee. I would also like to add that having been an Administrative Law

Judge for the past 16 years I have learned that efficiency is greatly important to adjudicating cases. It is important to make sure that all parties are aware of what is expected of them at the beginning of the hearing and that they expect to be held to those expectations and requirements. Once we have those clear goals set, we are able to facilitate the case efficiently and effectively. Thank you.

Ms. CRANE. I agree with both my co-nominees, and I would add that as a judge I would put in all the necessary time and effort to make sure that I am ready and prepared in court each day, so that my calendar is managed efficiently. I have had the privilege of working for a District Court judge who managed his calendar in that way, and I think that with my experience having practiced in Superior Court, my familiarity with the D.C. code, I would be able to quickly resolve matters that were presented in front of me.

Mr. SHANKER. Thank you, Chairman Peters. I am acutely aware of the need to work through the backlog in the D.C. Courts system as well as move cases with dispatch without sacrificing due care and attention. I have a heavy caseload at the Department of Justice. I have always prioritized preparation and responsiveness and efficiency.

I think if I were fortunate enough to be confirmed as a judge I would work to be prepared, to apply strict standards for extensions, to circulate my draft opinions promptly, and to quickly look at my colleagues' draft opinions.

Chairman PETERS. Very good. This next question will be for all of you as well, and I will start with you, Ms. Meek, and then work down that way and then end at Ms. Sanchez.

In your view, what is the proper temperament of a judge, and if you could think back through your career, how have you developed the elements that are going to be necessary to have the appropriate judicial temperament that you will need to exhibit if confirmed?

Ms. MEEK. I believe that components of the proper temperament for a judge: patience, understanding, respect, respect for the parties is very important, fairness. If all of these are applied, then it makes for a very good process for the parties, it makes for good due process for the parties, and it makes the job easier for the judge, actually. Thank you.

Chairman PETERS. Very good. Ms. Crane.

Ms. CRANE. I agree with my co-nominee and would add that being open-minded is extremely important, and giving both parties an opportunity to raise the issues before me and then evaluate those carefully by listening closely to the parties would be an important trait as well.

Mr. SHANKER. Thank you. I agree with co-nominees as well. I generally consider respect, humility, collegiality, and impartiality as the hallmarks of a judicial temperament.

Chairman PETERS. Ms. Sanchez.

Ms. SANCHEZ. Thank you. I concur as well. I would add that I think a dedication to the rule of law is also particularly necessary for a judge.

Chairman PETERS. The next question, the last question, will be for Mr. Shanker, Ms. Crane, and Ms. Sanchez, the three of you. As you shift from the role of an advocate to the role of an impartial

adjudicator, how are you preparing to make this transition if confirmed? Mr. Shanker.

Mr. SHANKER. Thank you, Chairman Peters. I am acutely aware of the critical differences between an advocate and an impartial arbiter. If I am fortunate enough to be confirmed, I commit to addressing all of my cases and the parties before me with impartiality, without bias, without prejudgment, and putting in the work in terms of reading the briefs, reading the cases, and listening to the arguments fairly and impartially.

Chairman PETERS. Ms. Crane.

Ms. CRANE. As an Assistant United States Attorney for the past eight years, I have often been required to anticipate the arguments of the opposing side, and I think that skill of constantly thinking about the flaws in my case as an advocate will prepare me well to be able to clearly see both sides and be prepared to listen fairly to both sides before me.

Chairman PETERS. Ms. Sanchez.

Ms. SANCHEZ. Thank you. I agree with my fellow nominees. I think that as an Assistant United States Attorney I have had the experience of also working with victims and working with witnesses and so also recognize the important quality that a judge would have to ensure that individuals that come before are heard and listened to. Also, I have also had the experience of having to assess cases and being able to step back and see whether the facts apply to the law.

Chairman PETERS. Very good. I would like to thank once again each of our nominees for joining us here today and for your willingness to serve in these very important positions that you have been nominated for.

The nominees have filed responses to biographical and financial questionnaires,¹ and without objection,² this information will be made a part of the hearing record³ with the exception of the financial data,⁴ which is on file and available for public inspection in the committee offices.⁵

The hearing record will remain open until 12 p.m. tomorrow, September 22nd, for the submission of statements and questions for the record.

This hearing is now adjourned.

[Whereupon, at 11:28 a.m., the Committee was adjourned.]

¹ The information of Mr. Shanker appear in the Appendix on page 35.

² The information of Ms. Crane appear in the Appendix on page 77.

³ The information of Ms. Shogan appear in the Appendix on page 104.

⁴ The information of Ms. Meek appear in the Appendix on page 133.

⁵ The information of Ms. Sanchez appear in the Appendix on page 159.

A P P E N D I X

**Chairman Peters Opening Statement As Prepared for Delivery
Full Committee Hearing: Nominations of Colleen J. Shogan to be Archivist of the United States, National Archives and Records Administration; Vijay Shanker to be an Associate Judge, District of Columbia Court of Appeals; and Laura E. Crane, Leslie A. Meek, and Veronica M. Sanchez to be Associate Judges, Superior Court of the District of Columbia
September, 21 2022**

The National Archives and Records Administration, often shortened to the National Archives, is responsible for adequately maintaining and preserving presidential and federal records.

These records are not just essential to keeping an accurate account of government activities or holding the executive branch accountable, they critical to ensuring that our nation's history is fully and accurately preserved for future generations.

The National Archives preserves some of our nation's most foundational documents, like the Constitution and the Declaration of Independence, as well as letters, photographs, newspapers, and congressional papers that tell the story of the United States from its earliest days to today.

The National Archives also protects and provides access to critical records and documents for the public to use from historical documents to educational resources, and most importantly, for veterans and servicemembers who need military personnel records to access the benefits they earned through their service.

Preserving all of these important records is a significant undertaking, and it requires qualified, independent, non-partisan leadership that is committed to serving in the best interests of the American people.

Dr. Shogan, if confirmed, you will not only oversee the National Archives' responsibility to preserve these essential documents, you will also face several challenges, including antiquated resources and technology, the rapid proliferation of electronic records, extensive backlogs from veteran requests, and the need to ensure all records, from every President and federal agency, are completely and adequately preserved.

I am confident that Congress can take the necessary steps to help address these challenges, modernize the government's record-keeping processes, and restore transparency and access for all Americans.

As Chairman of this Committee, I am working to build support for legislation I am drafting that will strengthen existing laws, update regulations, and modernize recordkeeping processes to incorporate emerging technologies. We held a hearing on this issue earlier this year as well, and I look forward to continuing to work with my colleagues to build on these efforts and protect our public record.

Dr. Shogan, I'm pleased to welcome you here today to discuss your nomination to serve in this important role and how we can better work together to achieve these vital goals.

Not only are you extremely well-qualified for this position, in our meetings about your nomination you have demonstrated keen judgment, nonpartisan independence, and the necessary capabilities to succeed in this challenging role.

Your nomination is also historic, and once confirmed, you will be the first woman to serve as the Archivist of the United States. Congratulations on your nomination and I look forward to hearing more from you today.

Today we are also considering four nominees to serve as Judges for the District of Columbia Court of Appeals and D.C. Superior Court. Those nominees are Vijay Shanker to be an Associate Judge on the D.C. Court of Appeals, and Laura Crane, Leslie Meek, and Veronica Sanchez to be Associate Judges on the D.C. Superior Court.

I am pleased to these qualified nominees before us today, each with a longstanding commitment to public service.

The D.C. Superior Court and the D.C. Court of Appeals function as the state-level trial and appellate courts within the unique justice system here in the nation's capital.

Both Courts are responsible for large volumes of cases each year, and the National Center for State Courts reports, the D.C. Superior Court files approximately 83,000 new cases across its five divisions each year, one of the highest per-capita rates in the country.

Despite these enormous caseloads, both courts are suffering from extensive judicial vacancies which have delayed resolutions for parties before the court and increased workloads for judges. If confirmed, you will not only take on these caseloads but determine matters that impact the freedom, livelihoods, and families of the many people who will come before you.

Today's hearing is an important opportunity for the Committee to learn more about your qualifications and how you plan to serve.

Welcome to each of you and your family members who are joining us today, and thank you for your willingness to serve. I look forward to hearing more from you all today.

Opening Statement
Hearing before the Homeland Security
and Governmental Affairs Committee
Wednesday, September 21, 2022

Nominations of Colleen J. Shogan to be Archivist of the United States, National Archives and Records Administration; Vijay Shanker to be an Associate Judge, District of Columbia Court of Appeals; and Laura E. Crane, Leslie A. Meek, and Veronica M. Sanchez to be Associate Judges, Superior Court of the District of Columbia

- Thank you, Chairman Peters, and thank you to the nominees appearing before us today. You have all worked very hard throughout your careers to reach this point. Thank you for your willingness to serve.
- Traditionally, nomination hearings for the Archivist position and DC judicial nominees are some of this committee's quieter hearings. Unfortunately, recent events have raised the stakes of this hearing and shown that this committee must exercise its oversight responsibilities.
- The position of Archivist generally flies under the radar. It is a non-partisan position tasked with preserving our nation's records and most important documents.
- However, NARA has recently been entangled in two very public and divisive conflicts: the certification of the Equal Rights Amendment and the return of Presidential Records.
- Both Federal Courts and the Office of Legal Counsel at the Department of Justice have been clear that the deadline for ratifying the ERA has passed, and it cannot be unilaterally certified by the Archivist.
- Former Archivist David Ferriero stated, "NARA defers to DOJ on this issue and will abide by the OLC opinion unless otherwise directed by a final court order." Over the past year, NARA has been at the center of that controversy. Today is the day we need to clarify where the NARA will be able to move

forward with the statutes in the laws and how the congressional process works. There has also been a question of the return of presidential records, which escalated to the point where the FBI searched the personal residence of Donald Trump, an unprecedented step.

- That was an initial request to the NARA for the record, then a search was carried out by the FBI.
- There have been a lot of questions about how that happened. What were the requests? What requests were accepted or denied?
- Mr. Chairman, on August 11, Senator Rick Scott and I sent you a letter requesting you set up a briefing with NARA, FBI, and DOJ. There was a briefing about what happened since the Mar-a-Lago raid, but there still has not been information from the NARA regarding what occurred. The current nominee obviously does not have those answers, but the records should be publicly available like any other NARA archive.
- Turning to the District of Columbia. Thank you for engaging with this. All of you have an extensive background in the law. We need people who will follow the law. In March, DC Metropolitan Police recovered the remains of five preborn children which seem to be from the Washington Surgi-Clinic.
- In the District of Columbia partial-birth abortions are illegal like everywhere in the country. These children have every appearance of being victims of a partial-birth abortion.
- We have asked careful questions of the District of Columbia. How are you investigating this? What is the department's process when you discover this type of action in the District of Columbia?
- I led a letter to Mayor Bowser signed by 19 Senators and 5 Members of the House asking for details on how the city will investigate these crimes. Instead, the Mayor has responded that they are going after the

whistle blower, and that they are turning the whistle blower in instead of investigating the death of these children.

- So, we are asking some very straight-forward questions and will continue to ask those straight-forward questions. We plan to get answers from the Mayor's office.
- All of you will judge some very difficult emotional cases in the future. I'm will continue to press the Mayor's office to be engaged.
- In the meantime, I'm going to continue to work on our nominees, assuming the Mayor is going to be responsive at some point. I will continue to use the leverage I have in the meantime to have a responsive nature.
- The law has to be enforced in the District of Columbia as it does everywhere else in the country. We want consistency in the law, and I think that is a reasonable request.
- Thank you, Chairman Peters.

Opening Statement of Vijay Shanker
Nominee to be an Associate Judge of the District of Columbia Court of Appeals

Good morning, Chairman Peters, Ranking Member Portman, and members of the Committee. I am honored and humbled to appear before you today as you consider my nomination to be an Associate Judge of the District of Columbia Court of Appeals. I thank you and your tireless staff for holding this hearing. Thank you to the Judicial Nomination Commission and its Chair, Judge Emmett Sullivan, for recommending me to the White House. I thank President Joseph Biden for nominating me. I was extremely grateful when I was first nominated in 2020 and am honored to have been nominated again this year. And, of course, I am also grateful to Chief Judge Blackburne-Rigsby and the associate judges of the D.C. Court of Appeals. I would be honored to join them in their service to the people of the District.

I can go no further without recognizing my true partner in life, Dee Martin. Dee has been such a support to me throughout this process, and also happens to be a phenomenal attorney in her own right. For over 20 years, Dee and I have supported each other in all our endeavors, perhaps none of which is more important than the raising of our amazing daughter, who has made us proud every day of her 14 years. Thank you to my wonderful parents, who unfortunately could not travel to be here today. They came to this country with little money and no support, settled in Ohio, and worked tirelessly with the single goal of providing my sisters and me with every opportunity they could. Thank you also to my sisters, brother-in-law, and niece, and to my wife's family, who welcomed me into their lives the very first day I met them.

There is not enough time today to thank all the people who have supported me in my professional life, but I must name two: the Honorable Chester J. Straub, for whom I had the privilege to serve as a law clerk, and Patty Merkamp Stemler, my boss for most of the past 17 years. They both truly epitomize what it means to be a public servant.

For almost two decades it has been my privilege to serve the nation as a career attorney in the Department of Justice. In that time I have gained a deep understanding of appellate law and practice, having argued almost 60 cases and having appeared in every federal court of appeals with criminal jurisdiction. I have been trusted with some of the Department's most challenging cases, across subject matter areas, and have been honored with the Department's John Marshall Award for the Handling of Appeals. Before joining the Department, I had a broad-based litigation practice at two law firms, where I gained valuable experience in civil, administrative, antitrust, and criminal law. As I mentioned, I also had the great fortune to begin my legal career as a law clerk to Judge Chester Straub on the United States Court of Appeals for the Second Circuit, where I learned about the value of preparation, meticulousness, civility, and collegiality.

Public service is a passion to me and if I am fortunate enough to be confirmed, I commit to ensuring that every party appearing before me is heard, respected, and given the opportunity to meaningfully participate in the judicial process; to applying the law impartially; and to striving every day to earn the respect of my colleagues and my community.

Thank you again for the opportunity to appear before you today. I look forward to your questions.

REDACTED

**QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS,
UNITED STATES SENATE**

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

- 1. Full name (include any former names used).**

Vijay Shanker

- 2. Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).**

I am a citizen of the United States by birth.

- 3. Current office address and telephone number.**

United States Department of Justice
950 Pennsylvania Avenue, NW, Room 1264
Washington, DC 20530
202-353-0268 (Office)
202-258-7149 (Mobile)

- 4. Date and place of birth.**

April 2, 1972
Youngstown, OH

- 5. Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).**

I am married to Elizabeth Dee Martin, a partner at Bracewell LLP, 2001 M Street, NW, Suite 900, Washington, DC 20036.

- 6. Names and ages of children. List occupation and employer's name if appropriate.**

[REDACTED]

REDACTED

- 7. Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and date each degree was received. Please list dating back from most recent to earliest.**

University of Virginia School of Law, Charlottesville, VA; 1996 – 1999; Juris Doctor, *Order of the Coif*, received June 1999.

Duke University, Durham, NC; 1990 – 1994; Bachelor of Arts, *cum laude*, in Public Policy Studies, received June 1994.

Westerville North High School, Westerville, OH; 1986 – 1990; High School Diploma, received June 1990.

8. **Employment record. List all jobs held since college, other than legal experience covered in question 16, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest. If you have served in the US military, please list dates of service, rank or rate, serial number, and type of discharge received.**

1994 – 1996
Covington & Burling LLP
850 Tenth Street, NW
Washington, DC 20001
Paralegal

9. **Honors and awards. List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.**

South Asian Bar Association of DC Public Sector Trailblazer Award for “sustained excellence in public sector legal work,” 2020.

University of Virginia School of Law Shaping Justice Award for Prosecution, 2017.

Department of Justice Attorney General’s John Marshall Award for Outstanding Legal Achievement for the Handling of Appeals, 2015.

Department of Justice Assistant Attorney General’s Award for Exceptional Service, 2013.

Department of Justice Assistant Attorney General’s Award for Distinguished Service, 2012.

Six Department of Justice Special Achievement Awards for “sustained superior performance of duty,” 2005, 2006, 2008, 2009, 2011, 2012.

University of Virginia School of Law, graduated *Order of the Coif*, 1999.

University of Virginia School of Law Roger & Madeleine Traynor Prize for “the graduate who has produced the best written work,” 1999.

University of Virginia School of Law Alumni Association Best Note Award, 1999.

University of Virginia School of Law Best Brief Award, Legal Research and Writing Class, 1996.

Duke University, graduated *cum laude*, 1994.

10. **Business relationships. List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.**

Since 2020, I have served as a Member of the Board of Directors of Calvary Women's Services, a not-for-profit charitable organization providing housing and services to women experiencing homelessness. Since 2021, I have served as Vice President of the Board. The position is uncompensated.

11. **Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.**

District of Columbia Bar
Member (2000 – present)

California Bar
Member (1999 – present) (inactive)

South Asian Bar Association of Washington, DC
Member (2005 – present)

Asian Pacific American Bar Association of Washington, DC
Member (2021 – present)

American Bar Association Antitrust Section Distribution & Franchising Committee
Vice-Chair (2003 – 2004)

12. **Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other organizations, other than those listed in response to Question 11. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.**

Calvary Women's Services
Vice President, Board of Directors (2021 – present)
Member, Board of Directors (2020 – 2021)

The organization listed above has not formerly discriminated and does not currently

discriminate on the basis of race, sex, or religion.

- 13. Court admissions. List all courts in which you have been admitted to practice, with dates of admission and lapses in admission if any such memberships have lapsed. Please explain the reason for any lapse in membership. Please provide the same information for any administrative bodies which require special admission to practice.**

I am an active, current member in the following state and federal courts:

United States Supreme Court, admitted in 2005.

United States Court of Appeals for the First Circuit, admitted in 2005.

United States Court of Appeals for the Second Circuit, admitted in 2006.

United States Court of Appeals for the Third Circuit, admitted in 2003.

United States Court of Appeals for the Fourth Circuit, admitted in 2007.

United States Court of Appeals for the Fifth Circuit, admitted in 2004.

United States Court of Appeals for the Sixth Circuit, admitted in 2005.

United States Court of Appeals for the Seventh Circuit, admitted in 2005.

United States Court of Appeals for the Eighth Circuit, admitted in 2015.

United States Court of Appeals for the Ninth Circuit, admitted in 2003.

United States Court of Appeals for the Tenth Circuit, admitted in 2005.

United States Court of Appeals for the Eleventh Circuit, admitted in 2005.

United States Court of Appeals for the District of Columbia Circuit, admitted in 2011.

United States District Court for the District of Columbia, admitted in 2021.

United States District Court for the Eastern District of Louisiana, admitted in 2015.

To my knowledge, there have been no lapses in membership.

- 14. Published writings. List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited.**

Note, Alcohol Direct Shipment Laws, the Commerce Clause, and the Twenty-First

Amendment, 85 VA. L. REV. 353 (1999).

15. **Speeches.** List the titles of any formal speeches you have delivered during the last five (5) years and the date and place where they were delivered. Please provide the Committee with four (4) copies of any of these speeches.

None.

16. **Legal career.**

- A. **Describe chronologically your law practice and experience after graduation from law school, including:**

- (1) **Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;**

From 2000 to 2001, I served as a law clerk to the Honorable Chester J. Straub, United States Circuit Judge for the United States Court of Appeals for the Second Circuit.

- (2) **Whether you practiced alone, and if so, the addresses and dates;**

I have never practiced alone.

- (3) **The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.**

1999 – 2000
Covington & Burling LLP
850 Tenth Street, NW
Washington, DC 20001
Litigation Associate

2001 – 2004
Covington & Burling LLP
850 Tenth Street, NW
Washington, DC 20001
Litigation Associate

2004 – 2005
Mayer Brown LLP
1999 K Street, NW
Washington, DC 20006
Appellate Litigation Associate

2011 – 2013

American University, Washington College of Law
4300 Nebraska Avenue, NW
Washington, DC 20016
Adjunct Associate Professor

2005 – present
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Trial Attorney, Appellate Section, Criminal Division (2005 – 2012)
Senior Counsel to the Assistant Attorney General, Criminal Division
(2012 – 2013)
Acting Deputy Chief of Staff and Counselor to the Assistant Attorney
General, Criminal Division (2013 – 2014)
Senior Litigation Counsel, Fraud Section, Criminal Division (2019 –
2021) (on detail)
Deputy Chief, Appellate Section, Criminal Division (2014 – present)

B. Describe the general character of your law practice, dividing it into periods with dates if its character has changed over the years.

From 1999 to 2000 and again from 2001 to 2004, I worked as an associate at Covington & Burling LLP. There, my practice focused on complex commercial litigation, including disputes arising out of various private-sector contracts; white-collar criminal litigation; appellate litigation; and antitrust litigation and advice. I also worked extensively on *pro bono* litigation, including representation of a prisoner challenging a prison regulation in the Third Circuit Court of Appeals and representation of a District of Columbia resident in D.C. Superior Court, Civil Division, Landlord and Tenant Branch.

From 2000 to 2001, I served as a judicial law clerk to the Honorable Chester J. Straub of the United States Court of Appeals for the Second Circuit, where I assisted Judge Straub in various civil, administrative, and criminal appellate matters.

From 2004 to 2005, I worked as an associate at Mayer Brown LLP. There, my practice focused on appellate litigation; white-collar criminal litigation; and complex commercial litigation, including disputes arising out of various private-sector contracts. I also worked extensively on *pro bono* litigation.

Since March 2005, I have served as an attorney at the Department of Justice. From March 2005 to October 2012, I was a Trial Attorney in the Appellate Section of the Criminal Division, where I briefed and argued criminal appeals on behalf of the government in the federal circuit courts of appeals and drafted briefs in criminal cases for filing in the Supreme Court. From October 2012 to June 2013, I served as Senior Counsel to the Assistant Attorney General for the

Criminal Division; in that role, I advised the Assistant Attorney General on a variety of legal and policy issues. From June 2013 to February 2014, I served as Acting Deputy Chief of Staff and Counselor to the Assistant Attorney General for the Criminal Division. In that position, I served as the third-highest-ranking Criminal Division official, helping to oversee approximately 600 lawyers and 1,000 employees and manage an annual budget of approximately \$600 million; advised the Assistant Attorney General and helped develop Division policy on a wide range of federal criminal issues; and worked closely with other Department and Executive Branch leaders and represented the Division in Departmental and interagency meetings, policy working groups, and task forces. In February 2014, I returned to the Appellate Section as Deputy Chief. In addition to handling my own caseload of federal criminal appeals, I supervise approximately 30 attorneys and meet regularly with Criminal Division and Department leadership regarding Section and Division matters. From August 2019 to August 2021, I served on detail as Senior Litigation Counsel in the Criminal Division's Fraud Section, where I investigated and prosecuted violations of the Foreign Corrupt Practices Act and related offenses and advised attorneys and leadership on a wide range of legal issues and litigation matters. At the conclusion of that detail, I returned to my role as Deputy Chief of the Appellate Section.

C. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

While an associate at Covington & Burling LLP, my typical clients were large corporations and other business entities involved in commercial disputes or white-collar criminal investigations. I also represented clients in civil litigation and worked extensively on discovery-related litigation. In addition, I represented individuals on a *pro bono* basis.

While an associate at Mayer Brown LLP, my clients were typically large corporations and other business entities involved in commercial disputes or white-collar investigations. I also represented clients in civil and criminal litigation. In addition, I represented individuals on a *pro bono* basis.

As a Department of Justice attorney, my client is the United States.

D. Describe the general nature of your litigation experience, including:

(1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.

Since 2005, while serving as a Department of Justice attorney focusing on appeals, I have frequently appeared in court, arguing approximately six to nine cases per year in the federal courts of appeals and occasionally

arguing in federal district court.

Prior to 2005, as a law firm associate, I appeared in court approximately two times per year, for proceedings such as status conferences in civil litigation matters and court appearances for *pro bono* clients.

(2) What percentage of these appearances was in:

(a) Federal courts (including Federal courts in D.C.);

75%

State courts of record (excluding D.C. courts);

10%

(b) D.C. courts (Superior Court and D.C. Court of Appeals only);

10%

(c) other courts and administrative bodies.

5% (United States Military Commission)

(3) What percentage of your litigation has been:

(a) civil;

20%

(b) criminal.

80%

(4) What is the total number of cases in courts of record you tried to verdict or judgment (rather than settled or resolved, but may include cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.

Because my practice has been focused on appeals, I have tried no cases to verdict or judgment. However, I have argued fifty-nine cases, including four *en banc* rehearings, in twelve different federal circuit courts of appeals. In addition, as a Special Assistant United States Attorney, I was co-counsel in the criminal case *United States v. Jalonta Little* in D.C. Superior Court (D.C. Super. Ct. No. 2008 CF3 22821; Hon. Todd

Edelman) in 2016 – 2017. The case was decided on a pre-trial motion to suppress evidence and did not proceed to trial. I am also currently a member of the trial team prosecuting *United States v. Keith Berman* in the United States District Court for the District of Columbia (Case No. 1:20-cr-00278). This is a securities fraud, wire fraud, false statements, and obstruction of official proceedings prosecution related to an alleged scheme to fraudulently claim the successful development of an instantaneous test for the Covid-19 virus. Trial has been continued multiple times and is currently scheduled for December 2022. I have investigated the matter, litigated pre-trial matters, and prepared for trial since July 2021.

(5) What percentage of these trials was to

(a) a jury;

N/A

(b) the court (include cases decided on motion but tabulate them separately).

N/A

- 17. Describe the five (5) most significant litigated matters which you personally handled. Provide citations, if the cases were reported, or the docket number and date if unreported. Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case. Identify the party/parties you represented and describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case, (a) the date of representation; (b) the court and the name of the judge or judges before whom the case was litigated; and (c) the name(s) and address(es) and, telephone number(s) of co-counsel and of the principal counsel for the other parties.**

1. *United States v. Yuzef Yunosovich Abramov*, 741 Fed. Appx. 531 (9th Cir. 2018) (Graber, W. Fletcher, Owens, C.JJ.).

This case involved the prosecution of a United States citizen who raped several pre-adolescent Russian girls in Moscow after traveling to Russia from the United States. The primary question on appeal was whether the federal statute barring traveling in foreign commerce and engaging in illicit sexual conduct, 18 U.S.C. § 2423(c) (2009), applies to a defendant who resided and was domiciled in the foreign country when he traveled there from the United States. The Ninth Circuit agreed with the government that the defendant's conduct was covered under the statute. This case involved heinous conduct and a complex statutory issue. I served as principal counsel and briefed and argued the matter on behalf of the United States as appellee in 2017 – 2018.

Co-Counsel:

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2. *United States v. Mark Hebert*, 813 F.3d 551 (5th Cir. 2015) (Stewart, King, Higginson, C.JJ.).

This case involved the prosecution of a New Orleans police officer who stole the identity of an elderly accident victim and then, as shown by the evidence, killed the victim to avoid being caught. The government charged Hebert with identity theft and bank fraud offenses, which carried a statutory maximum sentence (for all counts combined) of more than 150 years. The government did not charge Hebert with murder, but proved at sentencing by clear and convincing evidence that he killed his victim. The district court sentenced Hebert to ninety-two years, a sentence concededly driven by the murder finding but below the statutory maximum for the offenses of conviction. The question on appeal was whether such a sentence—within an applicable statutory maximum, but based on a judge-made finding by less than the reasonable-doubt standard—was constitutional. The Fifth Circuit agreed with the government that it was; the Supreme Court denied certiorari. This was a very significant case regarding sentencing in the post-*United States v. Booker* world and the Supreme Court's denial of certiorari reaffirmed the constitutionality of judge-made findings at sentencing even where such findings constitute the primary basis for the sentence imposed. I served as principal counsel and briefed and argued the matter on behalf of the United States as appellee in 2015 – 2016; I also drafted the Supreme Court certiorari opposition brief for the United States.

Co-Counsel:

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3. *United States v. Holy Land Foundation for Relief and Development*, 722 F.3d 677 (5th Cir. 2013) (Wiener, Clement, Prado, C.JJ.).

This long-running case, in which I secured an earlier *en banc* victory, involved a high-profile prosecution of an entity that provided financial and material support for Hamas. Following the conviction of the Holy Land Foundation, the district court entered a preliminary order of forfeiture awarding the government a \$12.4 million judgment representing the proceeds of HLF's criminal activity. Third-party victims then filed an ancillary petition in the forfeiture proceedings asserting an ownership interest in the assets. The third parties argued that the Terrorism Risk Insurance Act (TRIA), which allows a party to attach or execute against assets that are otherwise frozen or blocked by the government, overrode the government's criminal forfeiture of the assets. The district court agreed. On appeal, the government argued that the TRIA does not override the criminal forfeiture statute because it only overrides statutes that freeze or block assets, whereas the criminal forfeiture statute transfers ownership to the government. The Fifth Circuit agreed with the government and reversed the district court's decision. As a result of this appellate victory, the government obtained the forfeited assets, which it then distributed equitably to U.S. victims of Hamas terrorism. This was a significant decision in an important terrorism case regarding third-party challenges to criminal forfeitures, and the victory allowed the government to distribute assets to a greater number of victims. I served as principal counsel and briefed and argued the matter on behalf of the United States as appellant in 2011 – 2013.

Co-Counsel:

Lewis Yelin

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4. *United States v. Simon McCarty*, 648 F.3d 820 (9th Cir. 2011) (Hawkins, McKeown, Rawlinson, C.JJ.).

This case involved a government appeal from the suppression of child pornography evidence obtained as a result of an airport Transportation Security Administration search. The question on appeal focused on the bounds of an appropriate administrative search for explosives and whether the searcher's subjective state of mind is relevant in that analysis. The Ninth Circuit reversed the suppression order in a holding important not only in that it permitted the use of critical evidence against a child pornographer but also in that it clarified the contours of permissible airport searches. I served as principal counsel and argued the matter on behalf of the United States as appellant in 2010 – 2011.

Co-Counsel:

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5. *Ramirez v. Pugh*, 379 F.3d 122 (3d Cir. 2004) (Rendell, Cowen, C.JJ., Schwarzer, D.J.).

Ramirez was a federal prisoner challenging the Ensign Amendment, 28 U.S.C. § 530C(b)(6), which bans the use of federal funds to distribute certain sexually explicit material to prisoners. The court of appeals recognized that for the law to survive a First Amendment challenge, the prohibition must be reasonably related to a legitimate penological goal, which the government asserted was prisoner rehabilitation. It then held that the district court erred in finding a reasonable relation to the goal of rehabilitation without conducting "any analysis or inquiry into the interests involved and the connection

between those interests and the restriction at issue.” *Ramirez*, 379 F.3d at 128. The court expressly disagreed with the D.C. Circuit’s holding in *Amatel v. Reno*, 156 F.3d 192 (D.C. Cir. 1998), that no findings were necessary because “common sense” supported the conclusion that the restriction on the distribution of sexually explicit material is reasonably related to the penological interest of prisoner rehabilitation. The court thus reversed the district court’s dismissal of Ramirez’s challenge and remanded for an evidentiary hearing. The case resulted in a significant constitutional decision—that “courts may not abdicate their responsibility to scrutinize carefully the government’s reasons for infringing” prisoners’ First Amendment rights, *Ramirez*, 379 F.3d at 129—and created a circuit split. While in private practice, in 2004, I served, *pro bono*, as principal counsel and briefed and argued the case on behalf of Marc Ramirez as plaintiff-appellant.

Co-Counsel:

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18. **Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).**

I have been a member of the trial team prosecuting *United States v. Keith Berman* in the United States District Court for the District of Columbia (Case No. 1:20-cr-00278). This is a securities fraud, wire fraud, false statements, and obstruction of official proceedings prosecution related to an alleged scheme to fraudulently claim the successful development of an instantaneous test for the Covid-19 virus. Trial has been continued multiple times and is currently scheduled for December 2022. I have investigated the matter, litigated pre-trial matters, and prepared for trial since July 2021.

I am a member of the “Special Review Team” in *United States v. Khalid Shaikh Mohammad et al.*, the United States Military Commission Guantanamo Bay prosecution

of the masterminds of the September 11, 2001, attacks against the United States. The Special Review Team consists of five Department of Justice prosecutors and was assembled to litigate a conflict issue from which the prosecution team (which falls under the Department of Defense) was walled off. The Special Review Team has filed dozens of briefs, traveled to Guantanamo Bay multiple times, and presented argument before the Military Commission.

As a Special Assistant United States Attorney, I was co-counsel in the criminal case *United States v. Jalonta Little* in D.C. Superior Court (D.C. Super. Ct. No. 2008 CF3 22821; Hon. Todd Edelman) in 2016 – 2017. The case did not proceed to trial following pre-trial suppression of defendant's confession.

I have periodically provided *pro bono* advice and counsel at the DC Bar Pro Bono Center Advice and Referral Clinic.

- 19. Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide four (4) copies of all opinions you wrote during such service as a judge.**

No.

- A. List all court decisions you have made which were reversed or otherwise criticized on appeal.**

None.

- 20. Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).**

In June 2011, I applied for the D.C. Court of Appeals vacancy created by the retirement of the Hon. Vanessa Ruiz, but I was not recommended to the White House by the District of Columbia Judicial Nomination Commission.

In October 2013, I applied for the D.C. Court of Appeals vacancy created by the retirement of the Hon. Kathryn A. Oberly, but I was not recommended to the White House by the District of Columbia Judicial Nomination Commission.

In February 2017, I applied for the D.C. Court of Appeals vacancy created by the retirement of the Hon. Chief Judge Eric T. Washington, but I was not recommended to the White House by the District of Columbia Judicial Nomination Commission.

In February 2020, I applied for the D.C. Court of Appeals vacancy created by the retirement of the Hon. Kathryn A. Oberly; I was recommended to the White House by the District of Columbia Judicial Nomination Commission and was nominated for the

position by the White House; my nomination was withdrawn in February 2021.

In February 2021, I applied for the District Court for the District of Columbia vacancy created by the Hon. Emmet G. Sullivan's decision to take senior status.

In March 2021, I applied for the for the D.C. Court of Appeals vacancy created by the retirement of the Hon. Phyllis D. Thompson; I was still pending before the White House due to my prior, expired nomination but was not nominated.

In November 2021, I applied for the D.C. Court of Appeals vacancy created by the retirement of the Hon. Stephen H. Glickman; I was recommended to the White House by the District of Columbia Judicial Nomination Commission and have been nominated for the position by the White House.

21. Political activities and affiliations.

- **List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.**

None, other than the judgeship applications listed in response to question twenty.

- **List all memberships and offices held in and services rendered to any political party or election committee during the last ten (10) years.**

None.

- **Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last five (5) years of \$50 or more.**

None.

22. To your knowledge, have you ever been investigated, arrested, charged, or convicted (include pleas of guilty or nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, other than for a minor traffic offense? If so, please provide details.

No.

23. Have you or any business of which you are or were an officer, director or owner ever been a party or otherwise involved as a party in any other legal or administrative proceedings? If so, give the particulars. Do not list any proceedings in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a co-conspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.

No.

24. **Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.**

No.

II. POTENTIAL CONFLICTS OF INTEREST

1. **Will you sever all connections with your present employer(s), business firm(s), business association(s), or business organization(s) if you are confirmed?**

Yes. I plan to terminate my service on the Board of Directors of Calvary Women's Services unless such service is deemed consistent with District of Columbia Code of Judicial Conduct Rule 3.7(A)(6).

2. **Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.**

None.

3. **Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.**

Stock holdings in investment accounts managed by Morgan Stanley could potentially give rise to conflicts of interest. I will address such potential conflict issues consistent with the District of Columbia Code of Judicial Conduct, relevant advisory opinions of the Advisory Committee on Judicial Conduct of the District of Columbia Courts, and other relevant laws, rules, and practices.

My spouse is a partner at Bracewell LLP. If Bracewell LLP represents a party in a matter before me, or is a party in a matter before me, I will recuse myself as required by the District of Columbia Code of Judicial Conduct, relevant advisory opinions of the Advisory Committee on Judicial Conduct of the District of Columbia Courts, and other relevant laws, rules, and practices.

4. **Describe any business relationship, dealing, or financial transaction which you have had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest other than while in a federal government capacity.**

None.

5. **Describe any activity during the last ten (10) years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy other than while as a federal government employee.**

None.

6. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.**

No.

7. **Explain how you will resolve any potential conflicts of interest, including any that may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.**

I will address any potential conflicts of interest consistent with the District of Columbia Code of Judicial Conduct, relevant advisory opinions of the Advisory Committee on Judicial Conduct of the District of Columbia Courts, and other relevant laws, rules, and practices.

I have no trusts or other relevant agreements.

8. **If confirmed, do you expect to serve out your full term?**

Yes.

III. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section 11-150.1 (b), as amended.

1. Are you a citizen of the United States?

Yes.

2. Are you a member of the bar of the District of Columbia?

Yes.

3. Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.

Yes; August 4, 2000.

4. If the answer to Question 3 is "no" --

A. Are you a professor of law in a law school in the District of Columbia?

B. Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?

C. Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?

D. Upon what grounds is that eligibility based?

5. Are you a bona fide resident of the District of Columbia?

Yes. I have resided in the District of Columbia without interruption since 2001.

6. Have you maintained an actual place of abode in the greater Washington, D.C. area for at least five (5) years? Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.

Yes. Since August 2014, I have resided at

[REDACTED]

REDACTED

7. Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?

No.

- 8. Have you been a member of either of these Commissions within the last 12 months?**

No.

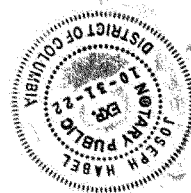
- 9. Please provide the committee with four (4) copies of your District of Columbia Judicial Nomination commission questionnaire.**

Attached.

AFFIDAVIT

Vijay Shanker being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Vijay Shanker
SUBSCRIBED and SWORN TO before me this 28th day of July 2022.
Joseph Habel
Notary Public



Senator James Lankford

Post-Hearing Questions for the Record

Submitted to Vijay Shanker

Nominations of Colleen J. Shogan to be Archivist of the United States, National Archives and Records Administration; Vijay Shanker to be an Associate Judge, District of Columbia Court of Appeals; and Laura E. Crane, Leslie A. Meek, and Veronica M. Sanchez to be Associate Judges, Superior Court of the District of Columbia

September 21, 2022

On Judicial Philosophy:

- How would you describe your judicial philosophy?

Response: If I am fortunate enough to be confirmed, my judicial philosophy will be to decide the case or controversy before me by fairly and impartially applying the law to the facts, without regard for my personal views, if any.

- If you are presented with a case, and the law clearly indicates that you should reach a particular result, but you conclude that result would be profoundly unjust. What do you do?

Response: I will consistently apply the law to the facts fairly and impartially, adhering to binding precedent, without regard for my personal views, if any.

- Should judges take changing social values into consideration when interpreting the law?

Response: Judges should interpret statutes based on the plain meaning of the statutory text, which is that which an ordinary speaker of English would have understood the words to mean, in their context, at the time the statute was enacted. *See Wisconsin Central Ltd. v. United States*, 138 S. Ct. 2067, 2070-2071 (2018); *Perrin v. United States*, 444 U.S. 37, 42 (1979). Likewise, constitutional interpretation requires a determination of the public understanding of a legal text in the period after its enactment or ratification. *See District of Columbia v. Heller*, 554 U.S. 570, 605 (2008). Accounting for changing social values is the job of the legislature. *See Gregg v. Georgia*, 428 U.S. 153, 175 (1976).

- What role should extrinsic factors not included within the text of a statute, especially legislative history and general principles of justice, play in statutory interpretation?

Response: Statutory interpretation must begin with the plain text, and if that text is unambiguous, “judicial inquiry is complete.” *Rubin v. United States*, 449 U.S. 424, 430 (1981); see *Connecticut Nat’l Bank v. Germain*, 503 U.S. 249, 254 (1992). In cases of ambiguity and where there is no binding precedent interpreting the statute, extrinsic tools of statutory interpretation that have been endorsed by the Supreme Court can be applied. See *Facebook, Inc. v. Duguid*, 141 S. Ct. 1163, 1170 n.5 (2021) (“Difficult ambiguities in statutory text will inevitably arise, despite the best efforts of legislators writing in ‘English prose[.]’ Courts should approach these interpretive problems methodically, using traditional tools of statutory interpretation, in order to confirm their assumptions about the ‘common understanding’ of words.”). Those accepted tools include dictionary definitions, canons of statutory construction, the rule of lenity in criminal cases, and appropriate legislative history, such as committee reports. “General principles of justice” should play no role in statutory interpretation.

- What Judge or Justice do you most admire? Why?

Response: I generally admire judges or Justices who prepare thoroughly, consider arguments with an open mind, treat parties and advocates with respect, have collegial relationships with their colleagues, handle their dockets efficiently, and write clear and concise opinions. The Honorable Chester J. Straub of the United States Court of Appeals for the Second Circuit, for whom I clerked, demonstrated all of these qualities.

- If defendants of a particular minority group receive on average longer sentences for a particular crime than do defendants of other racial or ethnic groups, should that disparity factor into the sentencing of an individual defendant? If so, how so?

Response: No. The factors relevant to sentencing in any particular case should include only those specific to the case itself and the individual defendant.

On Criminal Law:

- What do you see are the largest or most significant criminal issues currently in D.C.? And as a judge, what can you do to be able to help in that area?

Response: As a long-time District of Columbia resident, I am concerned about public safety and the crime rate. The backlog of criminal cases in the Superior Court and the Court of Appeals is a significant issue because, among other things, it delays justice and undermines confidence in the judicial system. As a judge, I will work quickly and efficiently to resolve criminal cases, and my extensive criminal experience will be valuable in that regard.

- What do you consider one of the most critical areas that you can serve D.C. while you're on the bench?

Response: As someone who has always prioritized preparation and efficiency, and as an appellate practitioner with extensive criminal experience, I can serve the District by promptly resolving cases, especially criminal matters, in order to reduce the backlog facing the District's courts.

On Religious freedom:

- Religious Freedom Restoration Act (RFRA) states that "[g]overnment shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability" unless the government "demonstrates that application of the burden to the person— (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest."
 - To pass the least-restrictive-means test, the government must show "that it lacks other means of achieving its desired goal without imposing a substantial burden on the exercise of religion" by the religious objector.
 - Would you agree that by denying churches the ability to hold an in-person church service, the city of Washington, D.C. violated RFRA?

Response: I am familiar with the District Court for the District of Columbia rulings in *Roman Catholic Archbishop of Washington v. Bowser*, 531 F. Supp. 3d 22 (D.D.C. 2021), and *Capitol Hill Baptist Church v. Bowser*, 496 F. Supp. 3d 284 (D.D.C. 2020), finding RFRA violations in this context, and am aware that the District did not appeal either of those decisions. I also consider the Supreme Court decisions in *Tandon v. Newsom*, 141 S. Ct. 1294, 1296 (2021) (per curiam); *South Bay United Pentecostal Church v. Newsom*, 141 S. Ct. 716 (2021); and *Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63 (2020) (per curiam), as governing on this issue (although they are First Amendment, not RFRA, cases). Under *Tandon*, "government regulations are not neutral and generally applicable, and therefore trigger strict scrutiny under the Free Exercise Clause, whenever they treat *any* comparable secular activity more favorably than religious exercise." 141 S. Ct. at 1296.

- The Mayor has a vaccine mandate in place for all city employees (including a required booster whenever eligible to receive one). If a case came before you where an employee was required to be vaccinated under the Mayor's order but doing so would violate their sincerely held religious belief and that employee requested and was denied a reasonable accommodation, how would you approach such a case? What steps would you take in determining whether the employee should be granted an accommodation from the mandate?

Response: Whether a reasonable accommodation is warranted is a fact-specific determination, and, moreover, if I am fortunate enough to be confirmed to the District of Columbia Court of Appeals, I would be reviewing a Superior Court decision rather than determining in the first instance whether an accommodation should have been granted. That said, I would approach such a case under the standards set forth in the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb, and the binding Supreme Court cases applying it, including *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014), and *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418 (2006).

**Post-Hearing Questions for the Record
Submitted to Vijay Shanker
From Senator Josh Hawley**

**“Nomination Hearing”
September 22, 2022**

1. In your questionnaire, you cite a child pornography case as an important case you worked on while at the Department of Justice. *United States v. Simon McCarty*, 648 F.3d 820 (9th Cir. 2011). What did you learn during this experience about the problems of child pornography in our society, and what can the government do to combat this?

Response: The Supreme Court recognized decades ago that “the exploitive use of children in the production of pornography has become a serious national problem.” *New York v. Ferber*, 458 U.S. 747, 749 (1982). It subsequently observed that the demand for child pornography harms children in part because it drives production, which involves child abuse; that the harms caused by child pornography are even more extensive because child pornography is “a permanent record” of the depicted child’s abuse; and that because child pornography is now traded with ease on the Internet, the number of still images and videos of child pornography has grown exponentially. *Paroline v. United States*, 572 U.S. 434, 439-440 (2014). In working on *United States v. McCarty*, 648 F.3d 820 (9th Cir. 2011), I witnessed these issues, as well as the international transportation of child pornography, firsthand. Federal and District of Columbia statutes prohibit certain conduct involving child pornography. *See, e.g.*, 18 U.S.C. § 2252A; D.C. Code § 22-3102. The government can combat the harms from child pornography by enforcing these and similar provisions.

2. Justice Marshall famously described his judicial philosophy as “You do what you think is right and let the law catch up.”

- Do you agree with that philosophy?

Response: My judicial philosophy will be to decide the case or controversy before me by fairly and impartially applying the law to the facts, without regard for my personal views, if any.

- If not, do you think it is a violation of the judicial oath to hold that philosophy?

Response: District of Columbia Court of Appeals judges take the judicial oath of office set forth in 28 U.S.C. § 453 (*see* D.C. Code § 11-704), swearing or affirming to administer justice without respect to persons, to do equal right to the poor and to the rich, and to faithfully and impartially discharge and perform all the duties incumbent upon the judge under the Constitution and laws of the

United States. If I were fortunate enough to be confirmed, I would adhere to that oath and would faithfully and impartially apply the Constitution and laws of the United States and the District of Columbia, without regard for my personal views, if any.

3. Have you ever worked on a legal case or representation in which you opposed a party's religious liberty claim? If so, please describe the nature of the representation and the extent of your involvement. Please also include citations or references to the cases, as appropriate.

Response: No.

4. What role should the original public meaning of the Constitution's text play in the courts' interpretation of its provisions?

Response: In *District of Columbia v. Heller*, 554 U.S. 570, 605 (2008), the Supreme Court explained that constitutional interpretation requires a determination of the public understanding of a legal text in the period after its enactment or ratification. In *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S. Ct. 2111, 2130 (2022), the Court reiterated that principle, stating that "reliance on history to inform the meaning of constitutional text" is a "more legitimate, and more administrable," means of constitutional interpretation.

5. Has the Supreme Court or any District of Columbia court ever recognized a constitutional right to DNA analysis for habeas corpus petitioners in order to prove their innocence of their convicted crime?

Response: I am not aware of such a holding by the Supreme Court or a District of Columbia court.

6. Under Supreme Court and District of Columbia precedents, what is the legal standard used to evaluate a claim that a facially neutral state governmental action is a substantial burden on the free exercise of religion? Please cite any cases you believe would be binding precedent.

Response: The District of Columbia is a "covered entity" under the Religious Freedom Restoration Act (RFRA), 42 U.S.C. § 2000bb-2(2). Under RFRA, government "shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability," unless "it demonstrates that application of the burden to the person . . . (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest." 42 U.S.C. § 2000bb-1(a) &

(b). Because RFRA expressly restores the compelling interest test as set forth in *Sherbert v. Verner*, 374 U.S. 398 (1963), and *Wisconsin v. Yoder*, 406 U.S. 205 (1972), and guarantees its application in all cases where free exercise of religion is substantially burdened, 42 U.S.C. § 2000bb(b)(1), it appears to provide that a facially neutral governmental action substantially burdens a person’s free exercise of religion if it forces individuals to choose between following the tenets of their religion and receiving a governmental benefit (*Sherbert*) or coerces individuals to act contrary to their religious beliefs by the threat of civil or criminal sanctions (*Yoder*). In the non-RFRA context, the Supreme Court has stated that “government regulations are not neutral and generally applicable, and therefore trigger strict scrutiny under the Free Exercise Clause, whenever they treat *any* comparable secular activity more favorably than religious exercise.” *Tandon v. Newsom*, 141 S. Ct. 1294, 1296 (2021) (per curiam).

Binding precedents applying RFRA include *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014); and *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418 (2006). Relevant non-RFRA precedents include *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 532 (1993); *Kennedy v. Bremerton Sch. Dist.*, 142 S. Ct. 2407 (2022); *Fulton v. City of Philadelphia, Pennsylvania*, 141 S. Ct. 1868 (2021); *Tandon v. Newsom*, 141 S. Ct. 1294, 1296 (2021) (per curiam); and *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012 (2017).

7. Under Supreme Court and District of Columbia precedents, what is the legal standard used to evaluate a claim that a state governmental action discriminates against a religious group or religious belief? Please cite any cases you believe would be binding precedent.

Response: In *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 532 (1993), the Supreme Court explained that “the protections of the Free Exercise Clause pertain if the law at issue discriminates against some or all religious beliefs or regulates or prohibits conduct because it is undertaken for religious reasons.” Furthermore, “[o]fficial action that targets religious conduct for distinctive treatment cannot be shielded by mere compliance with the requirement of facial neutrality.” *Id.* at 534. In *Tandon v. Newsom*, 141 S. Ct. 1294, 1296 (2021) (per curiam), the Supreme Court stated that “government regulations are not neutral and generally applicable, and therefore trigger strict scrutiny under the Free Exercise Clause, whenever they treat *any* comparable secular activity more favorably than religious exercise.” Other binding precedents include *Kennedy v. Bremerton Sch. Dist.*, 142 S. Ct. 2407 (2022);

Fulton v. City of Philadelphia, Pennsylvania, 141 S. Ct. 1868 (2021); and *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012 (2017).

8. What is the standard in the District of Columbia for evaluating whether a person's religious belief is held sincerely?

Response: The Supreme Court stated in *Hernandez v. Commissioner of Internal Revenue*, 490 U.S. 680, 699 (1989), that "[i]t is not within the judicial ken to question the centrality of particular beliefs or practices to a faith, or the validity of particular litigants' interpretations of those creeds." Instead, a court's "narrow function . . . is to determine' whether the line draw reflects 'an honest conviction.'" *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 725 (2014) (quoting *Thomas v. Rev. Bd. of Ind. Emp. Sec. Div.*, 450 U.S. 707, 716 (1981)). See also *Burwell*, 573 U.S. at 725 ("it is not for us to say that their religious beliefs are mistaken or insubstantial").

9. What is your understanding of the Supreme Court's holding in *District of Columbia v. Heller*, 554 U.S. 570 (2008)?

Response: In *District of Columbia v. Heller*, 554 U.S. 570 (2008), the Supreme Court held that the Second Amendment protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home. See *id.* at 576-628, 635. Accordingly, District of Columbia provisions that totally banned handgun possession in the home and required that any lawful firearm in the home be disassembled or bound by a trigger lock at all times violated the Second Amendment. See *id.* at 628-635.

10. Have you ever taken the position in litigation or a publication that a federal or state statute was unconstitutional? If yes, please provide appropriate citations or supply copies of relevant filings.

Response: To the best of my knowledge, and after having reviewed my filings, I have never taken the position in litigation that a federal or state statute was unconstitutional. Moreover, it is highly unlikely that I would have taken such a position in litigation in the past 17 years as a criminal prosecutor at the Department of Justice.

In my law school note, "Alcohol Direct Shipment Laws, the Commerce Clause, and the 21st Amendment," 85 *Va. Law Rev.* 353 (March 1999), I took the position that state "direct shipment laws," which regulate the interstate shipment of alcohol directly to consumers within the state's borders, violate the Commerce

Clause, are not promulgated under “core” Twenty-First Amendment powers, and therefore are unconstitutional. The Supreme Court subsequently agreed with exactly this position in *Granholm v. Heald*, 544 U.S. 460 (2005).

11. Since you were first contacted about being under consideration for this nomination, have you deleted or attempted to delete any content from your social media? If so, please produce copies of the originals.

Response: No.

12. Do you believe America is a systemically racist country?

Response: No.

13. Please describe your understanding of the duty of candor, if any, that nominees have to state their views on their judicial philosophy and be forthcoming when testifying before the Senate Judiciary Committee. *See* U.S. Const. art. II, § 2, cl. 2.

Response: In my view, judicial nominees have a duty to testify honestly and forthrightly during the advice-and-consent process set forth in the United States Constitution, art. II, § 2, cl. 2. My understanding is that judicial nominees might provide general descriptions of their judicial philosophies, but by doing so presumably would not be intending to suggest that they would decide any matter or issue in a certain manner.

August 29, 2022

The Honorable Gary C. Peters
Chair
U.S. Senate Committee on Homeland Security and Governmental Affairs
724 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Rob Portman
Ranking Member
U.S. Senate Committee on Homeland Security and Governmental Affairs
448 Russell Senate Office Building
Washington, D.C. 20510

Dear Chairman Peters and Ranking Member Portman:

We are former Assistant Attorneys General for the Department of Justice's Criminal Division from both Democratic and Republican administrations. We write in support of the confirmation of Vijay Shanker to the District of Columbia Court of Appeals.

Mr. Shanker served as an attorney and senior manager in the Appellate Section of the Criminal Division while each of us led that Division. We all saw Mr. Shanker's work and leadership firsthand and also came to know him personally. He is a talented and accomplished attorney with an outstanding work ethic, unassailable integrity, and superb judgment. He would be an asset to the District's appellate bench.

Having briefed and argued nearly 60 cases in the federal appellate courts, Mr. Shanker is a stalwart in the Appellate Section. He has handled some of the Department's most challenging cases and, in doing so, has earned a reputation in the Department, the defense bar, and the judiciary for fairness, candor, honesty, and meticulousness. Attorneys throughout the Department have sought Mr. Shanker's advice and counsel, and we all relied on his astute and balanced assessment of thorny legal issues. Mr. Shanker has contributed to the Department of Justice in numerous other ways as well. He has served on the Department's and Criminal Division's diversity committees, served on the Attorney General's Honors Program hiring committee for the Criminal Division, mentored countless younger attorneys, and developed and taught classes to help develop the Department's talent. The Department and Criminal Division have recognized Mr. Shanker's tremendous accomplishments with the Attorney General's John Marshall Award for Outstanding Legal Achievement for the Handling of Appeals, the Assistant Attorney General's Award for Exceptional Service, and the Assistant Attorney General's Award for Distinguished Service.

Mr. Shanker possesses an ideal judicial temperament. He is humble, considerate, and collegial; unflappable in the face of challenges; fair, evenhanded, and thoughtful. Mr. Shanker seeks to understand all sides of an issue and solicits divergent viewpoints before making a decision. He will be an impartial and respectful judge.

In short, we are confident that Mr. Shanker will contribute to the provision of justice in the District with the same commitment he has brought to the Department of Justice. We strongly support his swift confirmation.

Sincerely,¹

Brian A. Benczkowski
Assistant Attorney General, Criminal Division, United States Department of Justice, 2018-2020

Lanny A. Breuer
Assistant Attorney General, Criminal Division, United States Department of Justice, 2009-2013

Leslie R. Caldwell
Assistant Attorney General, Criminal Division, United States Department of Justice, 2014-2017

Alice S. Fisher
Assistant Attorney General, Criminal Division, United States Department of Justice, 2005-2008

¹ Signatories are listed in alphabetical order. Former titles are listed for identification purposes only.

August 12, 2022

The Honorable Gary C. Peters
Chair
U.S. Senate Committee on Homeland Security and Governmental Affairs
724 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Rob Portman
Ranking Member
U.S. Senate Committee on Homeland Security and Governmental Affairs
448 Russell Senate Office Building
Washington, D.C. 20510

Dear Chairman Peters and Ranking Member Portman:

I am writing to enthusiastically support Vijay Shanker for confirmation to the District of Columbia Court of Appeals. I currently serve as an Assistant Federal Public Defender (AFPD) in the Eastern District of North Carolina. I initially met Vijay when I was an Assistant United States Attorney (AUSA) in the Eastern District of North Carolina. As an AUSA, we would correspond in the normal course of duties; however, in addition to knowing him professionally, I grew to know him personally. In addition to working with him as an AUSA, I recently litigated against Vijay in a criminal matter in the United States Court of Appeals for the Fourth Circuit (*United States v Duroseau*). As a person who has worked with him on both sides of the “v”, I value Vijay’s character, integrity and fairness.

By way of background, I have been an attorney for over 20 years and I have guest lectured at Duke Law School, UNC Chapel Hill School of Law and Campbell Law School. Additionally, I am also a retired United States Air Force Judge Advocate having served on active duty, the Air Force Reserve, and with the North Carolina Air National Guard including multiple combat deployments in the Central Command Area of Responsibility. It is with this background that I can recommend, without hesitation, Vijay Shanker as the right person to be an appellate judge for the District of Columbia Court of Appeals.

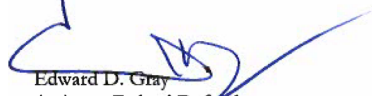
I can say without hesitation that Vijay is a respected and accomplished federal appellate prosecutor. As a Deputy Chief in the Appellate Section of the Criminal Division at the Department of Justice, he primarily supervises attorneys as they brief and argue cases in the federal courts of appeals. Vijay, however, also handles his own caseload, and he frequently handles matters presenting challenging legal issues. That is how we ended up across the aisle from Vijay in the *Duroseau* matter.

Although we were advocating for our respective positions, Vijay continued to demonstrate his reputation for fairness. Throughout the case, he displayed that he possessed a commitment to fairness and evenhandedness. Although I was representing the appellant/defendant in the case; I can say that Vijay represented, the United States, with zeal. Vijay understood the weaknesses in the government’s case and addressed them head on – but most importantly, objectively. The result was a lively debate at oral argument, during which Vijay exhibited a candor and demeanor worthy of one representing the people of the United States. Vijay was equally collegial and courteous with my co-counsel; and it is incredibly refreshing to interact with an advocate who understands that we may be combatants

within the courtroom; however, we can continue to be colleagues outside of the courthouse door. His civility and humility are just the types of attributes judges should have.

With a strong ethical core and demonstrated professionalism, he is more than ready to conquer the rigors of the appellate bench. I have little doubt that he will be an impartial and respectful arbiter and will be an asset to the bench. I fully support his prompt confirmation.

Sincerely,



Edward D. Gray
Assistant Federal Defender
Eastern District of North Carolina



2022 SABA-DC Board

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August 25, 2022

The Honorable Gary C. Peters
Chair
U.S. Senate Committee on Homeland Security and Governmental Affairs
724 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Rob Portman
Ranking Member
U.S. Senate Committee on Homeland Security and Governmental Affairs
448 Russell Senate Office Building
Washington, D.C. 20510

**Re: Endorsement of Vijay Shanker for Confirmation to District of
Columbia Court of Appeals**

Dear Chairman Peters and Ranking Member Portman:

On behalf of the South Asian Bar Association of Washington, D.C. ("SABA-DC"),ⁱ we write to express our unequivocal support for Vijay Shanker's confirmation to the District of Columbia Court of Appeals. We initially endorsed Mr. Shanker for this position in March 2020 and were thrilled that President Trump nominated him to the Court in June 2020. Although Mr. Shanker's nomination was not considered in the 116th Congress, President Biden renominated him for the position. We respectfully urge your Committee to confirm Mr. Shanker. SABA-DC is joined in this request by our parent organization, the South Asian Bar Association of North America ("SABA North America"),ⁱⁱ and the undersigned sister organizations around the United States.

SABA-DC is a voluntary bar association dedicated to the needs, concerns, and interests of the South Asian American legal community in the Washington, D.C. area. The organization reaches approximately 1,000 attorneys and jurists of South Asian origin in the D.C. metropolitan area. SABA-DC's key objectives are to advance the professional development of South Asian American lawyers, increase awareness and dialogue regarding legal issues concerning South Asian Americans, and improve access to legal services for the South Asian American community. In making our endorsements, we consider a candidate's experience,



past accomplishments, demonstrated interest in or commitment to the South Asian community, and broader efforts to improve diversity, equity, and inclusion in the legal profession. Mr. Shanker has been long-time member of SABA-DC and is frequent contributor to our programming. He has served as a mentor to junior lawyers in the early stages of their careers and has spoken on several panels and programs. In recognition of Mr. Shanker's commitment to public service, SABA-DC awarded him our Public Sector Trailblazer Award for "sustained excellence in public sector legal work" in 2020.

Based on his extensive personal and professional accomplishments, including 17 years at the U.S. Department of Justice ("DOJ"), SABA-DC and the undersigned believe that Mr. Shanker is immensely qualified to join the bench of the D.C. Court of Appeals. As Deputy Chief of the Appellate Section of the DOJ's Criminal Division, Mr. Shanker has extensive experience handling appeals. He has briefed and argued nearly 60 cases, including four *en banc* rehearings, in 12 courts of appeals and has drafted briefs for the Solicitor General for filing in the U.S. Supreme Court. Prior to his current role at DOJ, he served in the Office of the Assistant Attorney General for the Criminal Division, first as Senior Counsel and then as Acting Deputy Chief of Staff and Counselor to the Assistant Attorney General. Throughout Mr. Shanker's time at DOJ, he has been promoted to roles with greater responsibility time and time again and has been recognized with Departmental honors—including the Attorney General's John Marshall Award, the Assistant Attorney General's Award for Exceptional Service, and the Assistant Attorney General's Award for Distinguished Service—a testament to his superior legal skills, performance, and dedication to his work. Mr. Shanker's exemplary service at DOJ, combined with his work in the private sector, as a law clerk, and as a law professor, have provided him with the depth and quality of experience necessary for the D.C. Court of Appeals bench.

As important, we are confident that Mr. Shanker will readily contribute to the Court's goal of increased access to justice. Likewise, Mr. Shanker's confirmation would further promote equality, equity, and justice in the criminal justice system. As a federal prosecutor, Mr. Shanker knows all too well how reforming the criminal justice system could drastically alter the outlook for many communities in the United States. By all accounts, he is a fair, evenhanded, and respectful prosecutor with the utmost integrity.

Mr. Shanker is also deeply committed to pro bono legal work, having participated in the D.C. Bar Pro Bono Center Advice and Referral Clinic and currently serving as vice president of the board of directors of Calvary Women's Services. While in private practice, he handled numerous pro bono matters, including representing plaintiff-appellant Marc Ramirez in *Ramirez v. Pugh*, 379 F.3d 122 (3d Cir. 2004); a defendant-intervenor-appellee in *National Parks Conservation Association in McFarland v. Kempthorne*, 545 F.3d 1106 (9th Cir. 2008); a tenant in D.C. Superior



Court, Landlord & Tenant Branch; and a Pennsylvania state prisoner challenging conditions of confinement.

In addition to Mr. Shanker's strong qualifications, we note that his appointment to this position would enhance the diversity of the D.C. Court of Appeals bench. As a first-generation South Asian American—the son of immigrants from India who moved to the United States in the 1960s in search of the American dream—Mr. Shanker brings a unique perspective as someone who has been the subject of assumptions and stereotypes about himself and his family for his entire life. In a city full of immigrants like the District, we can think of no more important perspective to bring to the Court to increase access to justice and ensure fair treatment of all litigants and attorneys.

Based on the information highlighted in this letter, combined with the extensive materials you have received regarding his qualifications, SABA-DC, SABA North America, and the undersigned chapters believe Mr. Shanker is an exceptional candidate for the vacancy on the D.C. Court of Appeals bench. We affirm our enthusiastic support for him and respectfully request that the Committee promptly confirm Mr. Shanker.

Sincerely,

Amandeep S. Sidhu
Chairman, SABA-DC Endorsements Committee

South Asian Bar Association of North America
Tara M. Raghavan, President

South Asian Bar Association of Austin
Raghav Bajaj

South Asian Bar Association of Chicago
Avani Patel, President

South Asian Bar Association of Connecticut
Nandita Ruchandani, President

South Asian Bar Association of Delaware
Nitika Fiorella, President



South Asian Bar Association of Georgia
Lalitha Alladi, President

South Asian Bar Association of Las Vegas
Milan Chatterjee, President

South Asian Bar Association of New Jersey
Rachna B. Malkana, President

South Asian Bar Association of New York
L. Austin D'Souza, President

South Asian Bar Association of Northern California
Rav Grewal, President

South Asian Bar Association of Ohio
Richik Sarkar, President

South Asian Bar Association of Philadelphia
Jasmeet K. Ahuja, President

South Asian Bar Association of San Diego
Mytili Bala, President

South Asian Bar Association of Southern California
Taiyyeba Skomra & Pooja Patel, Co-Presidents

South Asian Bar Association of St. Louis
Fatima G. Khan, President

cc: Nandu Machiraju, President, SABA-DC
Debodhonyaa Sengupta, President-Elect, SABA-DC

Tara M. Raghavan, President, SABA North America
Charanjit Brahma, President-Elect, SABA North America

ⁱ SABA-DC is a voluntary bar association dedicated to the needs, concerns, and interests of the South Asian American legal community in the Washington, D.C. area. The organization reaches approximately 1,000 attorneys and jurists of South Asian origin in the D.C. metropolitan area. SABA-DC's key objectives are to advance the professional development of South Asian American lawyers, increase awareness and dialogue regarding legal issues concerning



South Asian Americans, and improve access to legal services for the South Asian American community. In making our endorsements, we consider a candidate's experience, past accomplishments, demonstrated interest in or commitment to the South Asian community, and broader efforts to improve diversity, equity, and inclusion in the legal profession.

ii SABA North America is a voluntary bar association dedicated to strengthening the rapidly growing South Asian legal community. With 29 chapters, the organization reaches over 9,000 attorneys of South Asian origin throughout the United States and Canada. SABA North America's objectives are to be a recognized and trusted forum for professional growth and development, to promote diversity and inclusion efforts that ensure equal participation in the legal profession and greater representation in the judiciary, and to promote civil rights and access to justice for the South Asian community and the community-at-large. In line with these objectives, SABA North America's Endorsement Committee will consider *inter alia* a candidate's background and experiences, recognition of accomplishments, interest in or commitment to the professional growth and development of the South Asian legal community, efforts to promote diversity and inclusion efforts in the legal profession, and commitment to promote civil rights and access to justice.

**Opening Statement of Laura E. Crane
Nominee to be an Associate Judge of the District of Columbia Superior Court**

Mr. Chairman and members of the Committee, it is an honor and privilege to be here today. I am grateful for the opportunity to appear before you as you consider my nomination to be an Associate Judge of the Superior Court of the District of Columbia.

There are many people I would like to thank today. First, I extend my thanks to each of the members of the Committee and to the Committee staff for considering my nomination. I further extend my appreciation to the Judicial Nomination Commission, and its chair, Judge Emmet G. Sullivan, for their service on the Commission. I extend my humble thank you to President Biden for nominating me to serve the people of the District of Columbia in this capacity.

I struggle to find words to express my deep appreciation for the support of my colleagues, family, and friends, who have been supporting me throughout this journey. In particular, I want to thank the current and former leadership of the United States Attorney's Office for the District of Columbia, where I have had the privilege and honor to work for the past eight years. This includes the current U.S. Attorney, Matt Graves, as well as former U.S. Attorneys Ron Machen, Vince Cohen, Channing Phillips, and Jessie Liu. I also thank my colleagues from the U.S. Attorney's Office who I have learned so much from.

I reserve special thanks for my friends and family who have supported me throughout this process and in the many years leading up to this. My parents, Pat and Carol Crane, are here today. They traveled here from upstate New York to extend the unfaltering support they have provided me throughout my life. Without that support, I have no doubt I would not be sitting here before you today. My parents worked tirelessly to support their children and have served as an example of hard work, kindness, respect, and humility. My brother Andrew Crane, and my sister-in-law, Yaara, are also here today; both of whom have dedicated their careers to public service as an attorney and as an educator.

I moved to the District of Columbia after graduating from Washington University School of Law in St. Louis and had an opportunity to begin my legal career working alongside dedicated and accomplished public servants at the Department of Justice where I worked on cases seeking to ensure that individuals with disabilities were receiving services in integrated settings. After briefly moving to New York City to work in private practice, I returned to the District for a clerkship with Judge James E. Boasberg of the U.S. District Court for the District of Columbia. During my clerkship, I spent countless hours in court proceedings and hoped that one day, I would have an opportunity to practice like the advocates who appeared before Judge Boasberg. That dream became a reality when I joined the U.S. Attorney's Office, where I have had the privilege of serving the citizens of the District of Columbia in both the Superior Court and the United States District Court for the past eight years, trying 60 cases and working on over one hundred investigations.

Since joining the U.S. Attorney's Office, I have appeared in court on a daily or near-daily basis and observed first-hand the qualities that make for an exceptional judge: humility, hard work, and application of the law to the facts without favor or bias. If given the opportunity to serve on the

bench, I will honor those principles. Thank you again for considering my nomination and I look forward to answering any questions you might have.

REDACTED

**QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS,
UNITED STATES SENATE**

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

1. **Full name (include any former names used).**

Laura Elizabeth Crane
2. **Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).**

I am a U.S. citizen.
3. **Current office address and telephone number.**

U.S. Attorney's Office for the District of Columbia
Patrick Henry Building
601 D St. NW, Rm. 5-1209
Washington, D.C. 20530
(202)252-7667
4. **Date and place of birth.**

June 4, 1981
Rochester, NY
5. **Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).**

I am unmarried.
6. **Names and ages of children. List occupation and employer's name if appropriate.**

None.
7. **Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and date each degree was received. Please list dating back from most recent to earliest.**

Washington University School of Law, August 2006 – May 2009, J.D. received *summa cum laude* May 2009.

Duke University, August 1999 – May 2003, B.A. received *magna cum laude* May, 2003.

Brighton High School, Rochester, NY, August 1995 – June 1999, high school diploma received June 1999.

8. **Employment record. List all jobs held since college, other than legal experience covered in question 16, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest. If you have served in the US military, please list dates of service, rank or rate, serial number, and type of discharge received.**

Euro RSCG MVBMS Partners
350 Hudson Street
New York, NY 10014
Assistant Account Executive (2003 – 2004)
Account Executive (2004 – 2005)
Jr. Strategic Planner (2005 – 2006)

Bazon Center for Mental Health Law
1090 Vermont Avenue NW, Suite 220
Washington, D.C. 20005
Summer Law Clerk (May 2007 – August 2007)

Cravath, Swaine, and Moore LLP
825 Eighth Ave.
New York, NY 10019
Summer Associate (May 2008 – August 2008)

9. **Honors and awards. List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.**

U.S. Attorney's Office Team Award: *United States v. Quaysa Flumo, Enyinna Onyewu, and Emmanuel Sumo* Team (2022)

U.S. Attorney's Office Team Award: Capitol Breach Rapid Response and Intake Team (2021)

U.S. Attorney's Office Special Achievement Awards (2019, 2016, 2015)

FBI Washington Field Office Service Award (2018)

U.S. Attorney's Office Award for Exceptional Service (2018)

U.S. Attorney's Office Impact Award (2017)

Legal Aid Society Award In Recognition of Outstanding *Pro Bono* Service (2012)

Washington University School of Law - Dan Carter-Earl Tedrow Memorial Award
Recipient (2009)

- 10. Business relationships. List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.**

I do not currently, nor have I formerly held, any positions as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.

- 11. Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.**

U.S. District Court for the District of Columbia
Member, Merit Selection Panel (2021 – 2022)

D.C. Bar Association
Member (2014 – present)

N.Y. Bar Association
Member (2010 – present)

- 12. Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other organizations, other than those listed in response to Question 11. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.**

None.

- 13. Court admissions. List all courts in which you have been admitted to practice, with dates of admission and lapses in admission if any such memberships have lapsed. Please explain the reason for any lapse in membership. Please provide the same information for any administrative bodies which require special admission to practice.**

D.C. Bar (2014 – present)

U.S. District Court for the District of Columbia Bar (2013 – present)

N.Y. Bar (2010 – present)

There have been no lapses in membership.

- 14. Published writings. List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited.**

None.

- 15. Speeches. List the titles of any formal speeches you have delivered during the last five (5) years and the date and place where they were delivered. Please provide the Committee with four (4) copies of any of these speeches.**

None.

- 16. Legal career.**

A. Describe chronologically your law practice and experience after graduation from law school, including:

- (1) Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;**

From April 2012 to August 2013, I served as a law clerk to the Honorable James E. Boasberg of the U.S. District Court for the District of Columbia.

- (2) Whether you practiced alone, and if so, the addresses and dates;**

I have not practiced alone.

- (3) The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.**

2014 – present
U.S. Attorney's Office for the District of Columbia
601 D St. NW
Washington, D.C. 20530
Assistant U.S. Attorney; Deputy Chief

2013 – 2014
Wilmer Hale, Washington, D.C.
1875 Pennsylvania Avenue NW
Washington, D.C. 20006
Senior Associate

2010 – 2012
Cravath, Swaine & Moore LLP
Worldwide Plaza
825 Eighth Avenue

New York, N.Y. 10019
Associate

2009 – 2010
Labat-Anderson, Inc.
*placement at U.S. Department of Justice,
Civil Rights Division, Disability Rights Section
1425 New York Ave. NW
Washington, D.C. 20530
Contract Attorney

B. Describe the general character of your law practice, dividing it into periods with dates if its character has changed over the years.

In August 2009, after graduating from law school, I worked as a contract attorney at the Department of Justice, Civil Rights Division, Disability Rights Section (“DRS”). (The contract was through Labat-Anderson, Inc.). While on this contract, I worked on the Department’s efforts to enforce the Supreme Court’s decision in *Olmstead v. L.C.*, a ruling that requires states to ensure that persons with disabilities receive services in the most integrated setting appropriate to their needs.

In November 2010, after leaving DRS, I worked as a litigation associate at Cravath, Swaine, and Moore LLP in New York City, where I worked in a securities litigation practice group. While at Cravath, I worked on a number of *pro bono* matters, including a class action lawsuit seeking to ensure that individuals in N.Y. state prisons with mental illness were receiving adequate discharge planning services upon release. I worked at Cravath until April of 2012, when I left the firm to begin a clerkship.

From April 2012 until August 2013, I served as a law clerk to the Honorable James E. Boasberg on the District Court for the District of Columbia.

After clerking, I worked as a Senior Associate in the Government and Regulatory Litigation practice group at Wilmer Hale in Washington, D.C. (from September 2013 until March of 2014).

In March of 2014, I left Wilmer Hale to become an Assistant United States Attorney for the District of Columbia. For approximately the first four years at the U.S. Attorney’s Office, I prosecuted violent crimes, gun crimes, and narcotics offenses in D.C. Superior Court. From 2018, until present, I have practiced in D.C. District Court, focusing on violent crimes and narcotics trafficking case. I have been a Deputy Chief in the Criminal Division since November of 2019, where I supervise AUSAs who are prosecuting violent crimes, gun cases, and drug offenses in D.C. District Court.

C. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

Since March of 2014, I have practiced criminal law at the U.S. Attorney's Office, prosecuting violent crime, gun offenses, and narcotics trafficking cases.

In private practice (at Wilmer Hale and at Cravath, Swaine, & Moore), I was a litigation associate handling general commercial litigation, as well as securities litigation. I also worked on a number of *pro bono* matters at both firms.

While working as a contract attorney at Labat-Anderson, Inc., I worked on a number of cases in the Disability Rights Section of the Civil Rights Division at the Department of Justice seeking to enforce the integration mandate of the Department's regulation implementing Title II of the ADA on behalf of individuals with disabilities.

D. Describe the general nature of your litigation experience, including:

(1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.

While in private practice, I appeared far less frequently in court, as the bulk of my practice involved complex civil litigation with extensive discovery. Since joining the U.S. Attorney's Office in March of 2014, I appear in court on a daily basis or near-daily basis.

(2) What percentage of these appearances was in:

(a) Federal courts (including Federal courts in D.C.);

Approximately 50% of my court appearances have been in federal court in the District of Columbia.

(b) State courts of record (excluding D.C. courts);

0%

(c) D.C. courts (Superior Court and D.C. Court of Appeals only);

Approximately 50% of my court appearances have been in D.C. Superior Court.

- (d) **other courts and administrative bodies.**

0%

- (3) **What percentage of your litigation has been:**

- (a) **civil;**

25%

- (b) **criminal.**

75%

- (4) **What is the total number of cases in courts of record you tried to verdict or judgment (rather than settled or resolved, but may include cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.**

I have tried approximately 25 jury cases and 35 bench cases. I was lead counsel in approximately half of my jury cases and was second-chair in the remaining cases. I was lead counsel in all of my bench cases.

- (5) **What percentage of these trials was to**

- (a) **a jury;**

40%

- (b) **the court (include cases decided on motion but tabulate them separately).**

60%

17. **Describe the five (5) most significant litigated matters which you personally handled. Provide citations, if the cases were reported, or the docket number and date if unreported. Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case. Identify the party/parties you represented and describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case, (a) the date of representation; (b) the court and the name of the judge or judges before whom the case was litigated; and (c) the name(s) and address(es) and, telephone number(s) of co-counsel and of the principal counsel for the other parties.**

1. *United States v. Demontra Harris*, 19-CR-358 (RC) (before Judge Rudolph Contreras)

From 2019 to 2021, I represented the United States in this case involving the Unlawful Possession of a Firearm and Assault with a Dangerous Weapon. I handled all aspects of the investigation and filed and responded to numerous motions, including the *Daubert* hearing regarding the admissibility of firearms and toolmark evidence, a motion regarding 404(b) evidence, a motion in limine regarding officer witness identification testimony, and a motion in limine regarding allegations of misconduct at the D.C. Department of Forensic Sciences. The defendant pled guilty on the eve of trial and was sentenced to three years and ten months of incarceration.

Co-counsel

Christopher Berridge
740-972-3253

Defense Counsel

Manuel Retureta
300 New Jersey Avenue, NW, Suite 900
Washington, D.C. 20001
202-450-6119

Allen Orenberg
The Orenberg Law Firm, P.C.
12505 Park Potomac Avenue, 6th Floor
Potomac, MD 20854
301-984-8005

2. *United States v. Michael Hight and James Young*, 2014 CF1 15616 & 2014 CF1 15617 (before Judge Milton C. Lee)

From December 2017 until present, I represented the United States in this homicide case with co-counsel AUSA Richard Barker. I joined the case in advance of trial and handled pretrial motions. At trial, I put on numerous witnesses, including civilian, law enforcement, and expert witnesses. The defendants were convicted at trial and sentenced to 45 years of incarceration.

Co-counsel

AUSA Richard Barker
509-808-6594

Defense Counsel:

Joseph Caleb (Defendant Hight)
1100 H Street NW Suite 315
Washington, D.C. 20005
202-953-9850

Ferris Bond (Defendant Young)
777 Sixth Street N.W. Suite 400
Washington, D.C. 20001
202-423-3859

3. *United States v. Darin Moore, et al.*, 18-CR-198 (JEB) (before Judge James E. Boasberg)

From June 2018, until present, I represented the United States in this case with co-counsel AUSA Steve Wasserman. The case involves four defendants charged with Kidnapping Resulting in Death, First Degree Murder, and Felony Murder while Armed. I have handled all aspects of the investigation and filed and responded to numerous pretrial motions, including motions dealing with the extent of permissible conspiracy evidence, evidentiary issues, forensic issues, suppression of evidence, and severance of defendants. Trial is scheduled to begin in September 2022.

Co-counsel:
AUSA Steven Wasserman
202-809-3501

Defense Counsel:

Brian Stolarz, Senior Counsel (Defendant Moore)
Norton Rose Fulbright US LLP
Washington, D.C.
202-662-0309

Michael Lawlor (Defendant Moore)
6305 Ivy Lane, Suite 700
Greenbelt, MD 20770
240-219-8980

Clark Fleckinger (Defendant Taylor)
111 Rockville Pike
Rockville, MD 20850
301-294-7301

Brian McDaniel (Defendant Sweeney)
1666 K Street NW, Suite 1150
Washington, D.C. 20006
202-682-5800

Carmen Hernandez (Defendant Brown)
7166 Mink Hollow Rd
Highland, MD 20777
240-472-3391

4. *United States v. Andre Allen*, 19-CR-114 (DLF) (before Dabney L. Friedrich)

From June 2018 until March 2021, I represented the United States in this case involving an armed kidnapping. I handled all aspects of the investigation and filed and responded to numerous motions. The defendant pled guilty and was sentenced to eight years and one month of incarceration.

Supervisor:

Anthony Scarpelli
Chief of Violent Crimes & Narcotics Trafficking Section
202-997-1108

Defense Counsel:

Eduardo Balarezo
400 Seventh St. NW, Suite 306
Washington, D.C. 20004
202-639-0999

5. *United States v. Terrez Crocker & Andre Walker*, 2015 CF3 11893 & 11894 (before Judge Ronna Lee Beck)

From September 2016 until June 2021, I represented the United States in this case along with AUSA Alicia Long, involving a series of robberies. I joined this case after it had been indicted, but worked to prepare the case for trial, including preparing our adult cooperating witness and a juvenile witness. I filed numerous oppositions and responded to legal issues throughout the trial. The defendants were found guilty of several robberies (and were acquitted of other robberies). Defendant Crocker was sentenced to seven years of incarceration; Defendant Walker was sentenced to five years of incarceration. The case was affirmed on appeal.

Co-counsel:

AUSA Alicia Long
202-834-4752

Defense Counsel:

James Williams (Defendant Crocker)
3913 Benton St., NW
Washington, D.C. 20007
202-841-5290

Blase Kearney
The Public Defender Service for the District of Columbia
633 Indiana Avenue, N.W.
Washington, D.C. 20004

*Currently employed at Neighborhood Defender Service.
500 Griswold St, 29th Fl
Detroit, MI 48226
313-474-3200

18. **Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).**

As an associate, I was involved in complex discovery on large-scale securities matters. Based on this work, I am familiar with the challenges of large-scale e-discovery and have litigated a number of discovery disputes and privilege disputes. This work also involved training and overseeing a large team of contract attorneys and their use of e-discovery platforms for the review and production of discovery.

19. **Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide four (4) copies of all opinions you wrote during such service as a judge.**

I have never held judicial office.

- A. List all court decisions you have made which were reversed or otherwise criticized on appeal.**

None.

20. **Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).**

I have never been a candidate for elective, judicial, or any other public office.

21. **Political activities and affiliations.**

- **List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.**

I have never been elected or appointed, nor have I held or sought a public office as a candidate or applicant.

- **List all memberships and offices held in and services rendered to any political party or election committee during the last ten (10) years.**

I have not been a member, held an office, or rendered services to any political party or election committee during the last ten years.

- **Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last five (5) years of \$50 or more.**

I have not made any political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last five years.

22. **To your knowledge, have you ever been investigated, arrested, charged, or convicted (include pleas of guilty or nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, other than for a minor traffic offense? If so, please provide details.**

To my knowledge, I have not been investigated, arrested, charged, or convicted (including pleas of guilty or nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, other than for a minor traffic offense.

23. **Have you or any business of which you are or were an officer, director or owner ever been a party or otherwise involved as a party in any other legal or administrative proceedings? If so, give the particulars. Do not list any proceedings in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a co-conspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.**

I have not personally, nor has a business of which I have been an officer, director, or owner, ever been a party or otherwise involved as a party in any other legal or administrative proceedings.

24. **Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.**

I have not been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group.

II. POTENTIAL CONFLICTS OF INTEREST

1. **Will you sever all connections with your present employer(s), business firm(s), business association(s), or business organization(s) if you are confirmed?**

Yes, I will sever all connections with my present employer if I am confirmed.

2. **Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.**

I do not have a deferred compensation agreement or other continuing dealings with my employer, business associates, or clients.

3. **Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.**

I am not aware of any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.

4. **Describe any business relationship, dealing, or financial transaction which you have had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest other than while in a federal government capacity.**

I am not aware of any business relationship, dealing, or financial transaction that I have had in the last ten (10) years, that could in any way constitute or result in a possible conflict of interest.

5. **Describe any activity during the last ten (10) years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy other than while as a federal government employee.**

I have not been involved in any activity during the last ten (10) years for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy.

6. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.**

I have no plans, commitments, or agreements to pursue outside employment during my service as a judge.

7. **Explain how you will resolve any potential conflicts of interest, including any that may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.**

I will address any potential conflicts of interest consistent with the District of Columbia Code of Judicial Conduct, relevant advisory opinions of the Advisory Committee on Judicial Conduct of the District of Columbia Courts, and other relevant laws, rules, and practices.

8. If confirmed, do you expect to serve out your full term?

If confirmed, I expect to serve the full term.

III. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section I I - 150 1 (b), as amended.

1. Are you a citizen of the United States?

I am a citizen of the United States.

2. Are you a member of the bar of the District of Columbia?

I am a member of the bar of the District of Columbia.

3. Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.

I have been a member of the bar of the District of Columbia for at least 5 years; I was admitted to practice in the District of Columbia in March of 2014.

4. If the answer to Question 3 is "no" --

A. Are you a professor of law in a law school in the District of Columbia?

B. Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?

C. Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?

D. Upon what grounds is that eligibility based?

5. Are you a bona fide resident of the District of Columbia?

I am a bona fide resident of the District of Columbia.

6. Have you maintained an actual place of abode in the greater Washington, D.C. area for at least five (5) years? Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.

Yes, I have resided at [REDACTED] since 2013. REDACTED

7. Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?

I am not a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission.

8. Have you been a member of either of these Commissions within the last 12 months?

I have not been a member of either of these Commissions within the last 12 months.

9. Please provide the committee with four (4) copies of your District of Columbia Judicial Nomination commission questionnaire.

Please see attached.

AFFIDAVIT

Laura E. Crane being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Laura E. Crane

SUBSCRIBED and SWORN TO before me this 4th day of August 2022.

Marc Thompson

Notary Public



Senator James Lankford

Post-Hearing Questions for the Record

Submitted to Laura E. Crane

Nominations of Colleen J. Shogan to be Archivist of the United States, National Archives and Records Administration; Vijay Shanker to be an Associate Judge, District of Columbia Court of Appeals; and Laura E. Crane, Leslie A. Meek, and Veronica M. Sanchez to be Associate Judges, Superior Court of the District of Columbia

September 21, 2022

On Judicial Philosophy:

- How would you describe your judicial philosophy?
 - Response: In the more than eight years that I have been practicing in D.C. Superior Court, I have had the privilege of appearing before Associate Judges who come to court prepared on legal issues and listen carefully to the arguments presented by the advocates appearing before them. They are open-minded and do not pre-judge issues that come before them. They are patient and respectful with the parties who appear before them. After applying the law to the facts, they reach a decision dictated by the law. They explain their decision in a clear and straight-forward manner that ensures that all parties understand the basis for the decision. I would employ these principles if I am confirmed to the bench.
- If you are presented with a case, and the law clearly indicates that you should reach a particular result, but you conclude that result would be profoundly unjust. What do you do?
 - Response: I would dutifully apply the law to the facts and reach a result based on the applicable law. A judge's personal views have no place in the courtroom.
- Should judges take changing social values into consideration when interpreting the law?
 - Response: No. In *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020), the Supreme Court stated that a statute should be interpreted "in accord with the ordinary public meaning of its terms at the time of its enactment." The Court cautioned that "[i]f judges could add to, remodel, update, or detract from old statutory terms inspired only by extratextual sources and our own imaginations, we would risk amending statutes outside the legislative process reserved for the people's representatives. And we would deny the people the right to continue relying on the original meaning of the law they have counted on to settle their rights and obligations." *Id.* at 1738.
- What role should extrinsic factors not included within the text of a statute, especially legislative history and general principles of justice, play in statutory interpretation?
 - Response: In *Bostock*, the Supreme Court underscored that where "the meaning of the statute's terms is plain, our job is at an end. The people are entitled to rely on the law as

written, without fearing that courts might disregard its plain terms based on some extratextual consideration.” However, the Court recognized that where there is ambiguity in statutory language, legislative history can be consulted if needed to attempt to resolve the ambiguity. *Bostock*, 140 S. Ct. at 1739. When legislative history is consulted to resolve such ambiguities, the Supreme Court has recognized that certain sources should be afforded greater weight than other sources. See *Garcia v. United States*, 105 S. Ct. 479, 483 (1984) (recognizing value of Committee Reports as representing the “collective understanding of proposed legislation,” in contrast to considerably less informative sources, such as “passing comments” of a member or “casual statements from the floor debates.”) (internal citations omitted).

- What Judge or Justice do you most admire? Why?
 - Response: I had the privilege of clerking for the Honorable Judge James E. Boasberg of the District Court for the District of Columbia. His worth-ethic, intelligence, and judicial temperament exemplify the qualities of a judge that I would seek to embody if confirmed.
- If defendants of a particular minority group receive on average longer sentences for a particular crime than do defendants of other racial or ethnic groups, should that disparity factor into the sentencing of an individual defendant? If so, how so?
 - Response: As a Judge, I would sentence a defendant based on the nature and circumstances of the offense of conviction, and the history and characteristics of the individual defendant. I would not consider a defendant’s race or ethnicity in sentencing a defendant.

On Criminal Law:

- What do you see are the largest or most significant criminal issues currently in D.C.? And as a judge, what can you do to be able to help in that area?
 - Response: Following the closures of D.C. Superior as a result of the pandemic, the backlog of defendants awaiting trial is the most significant issue in D.C. My familiarity with the D.C. Code and my eight years of criminal practice in D.C., would allow me to assist in this area, as I would quickly be able to acclimate myself and assist in resolving cases fairly and expeditiously. Additionally, my experience with civil litigation prior to joining the Department of Justice provides me with a strong foundation that would allow me to handle civil cases should I be placed on a civil docket.
- What do you consider one of the most critical areas that you can serve D.C. while you’re on the bench?
 - Response: In addition to assisting with reducing the backlog and ensuring that cases are resolved in a timely fashion, I believe that my ability to clearly explain my reasoning to litigants both orally and in written opinions will assist D.C. by helping to build community confidence in the legitimacy of the judicial system.

On Religious freedom:

- Religious Freedom Restoration Act (RFRA) states that “[g]overnment shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability” unless the government “demonstrates that application of the burden to the person— (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.”
 - To pass the least-restrictive-means test, the government must show “that it lacks other means of achieving its desired goal without imposing a substantial burden on the exercise of religion” by the religious objector.
 - Would you agree that by denying churches the ability to hold an in-person church service, the city of Washington, D.C. violated RFRA?
 - Response: The District of Columbia is a covered entity under the Religious Freedom Restoration Act, and the District of Columbia and its officials must comply with the statute. *See* 42 U.S.C. § 2000bb-2. If I was presented with a case implicating issues of religious freedom, I would dutifully apply the standard set forth in 42 U.S.C. § 2000bb-1(a) to (b), and I would follow the Supreme Court’s guidance in religious liberty cases. As the District Court in *Capitol Hill Baptist Church v. Bowser*, 496 F. Supp. 3d 284 (D.D.C. 2020) recently explained, “RFRA provides that the government may not ‘substantially burden’ a person’s exercise of religion, ‘even if the burden results from a rule of general applicability.’ *Id.* § 2000bb-1(a). ‘The only exception recognized by the statute requires the government to satisfy the compelling interest test,’ that is, ‘to demonstrate that application of the burden to the person—(1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.’ *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 423, 126 S. Ct. 1211 (2006) (quoting 42 U.S.C. § 2000bb-1(b)) (cleaned up).” *Id.* at 293. As the Court in *Capitol Hill Baptist Church* went on to note, “[u]nder RFRA, the District must prove a compelling interest in banning the specific religious practice at issue: Gathering for religious worship outdoors while wearing masks and socially distancing. As the Sixth Circuit recently explained when enjoining similar restrictions based on Kentucky’s RFRA statute: ‘The likelihood-of-success inquiry instead turns on whether [the] orders were “the least restrictive means” of achieving these public health interests. Ky. Rev. Stat. § 446.350. That’s a difficult hill to climb, and it was never meant to be anything less.’ *Maryville Baptist Church, Inc. v. Beshear*, 957 F.3d 610, 613 (6th Cir. 2020) (citing *Barr v. City of Sinton*, 295 S.W.3d 287, 289 (Tex. 2009); *Holt v. Hobbs*, 574 U.S. 352, 364 (2015)).” *Id.* at 297-298.
- The Mayor has a vaccine mandate in place for all city employees (including a required booster whenever eligible to receive one). If a case came before you where an employee was required to be vaccinated under the Mayor’s order but doing so would violate their sincerely

held religious belief and that employee requested and was denied a reasonable accommodation, how would you approach such a case? What steps would you take in determining whether the employee should be granted an accommodation from the mandate?

- Response: Because D.C. is a covered entity for purposes of RFRA, I would apply that statute and Supreme Court precedents interpreting RFRA, as well as other relevant precedents, including *Tandon v. Newsom*, 114 S. Ct. 1294 (2021), *Burwell v. Hobby Lobby*, 573 U.S. 682 (2014), *Kennedy v. Bremerton School District*, 597 U.S. ____ (2022), and *Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520 (1993). Under RFRA, the District of Columbia “shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability,” unless “it demonstrates that application of the burden to the person . . . (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.” 42 U.S.C. § 2000bb-1(a) to (b), and I would apply this standard to the facts in any case before me implicating RFRA.

**Post-Hearing Questions for the Record
Submitted to Laura E. Crane
From Senator Josh Hawley**

**“Nomination Hearing”
September 22, 2022**

1. Justice Marshall famously described his judicial philosophy as “You do what you think is right and let the law catch up.”
 - Do you agree with that philosophy?
 - Response: No.
 - If not, do you think it is a violation of the judicial oath to hold that philosophy?
 - Response: I believe that the judicial oath requires a judge to apply the law to the facts before him.
2. Have you ever worked on a legal case or representation in which you opposed a party’s religious liberty claim? If so, please describe the nature of the representation and the extent of your involvement. Please also include citations or references to the cases, as appropriate.
 - Response: I have never worked on a case where I have opposed a party’s religious liberty claim.
3. What role should the original public meaning of the Constitution’s text play in the courts’ interpretation of its provisions?
 - Response: As the Supreme Court explained in *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S. Ct. 2111 (2022), interpretation of the Constitution is rooted in the founding document’s “text and historical understanding.” *Id.* at 2131. The Court further recognized that the Constitution was “‘intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs.’ Although its meaning is fixed according to the understandings of those who ratified it, the Constitution can, and must, apply to circumstances beyond those the Founders specifically anticipated.” *Id.* at 232 (internal citations omitted).
4. Has the Supreme Court or any District of Columbia court ever recognized a constitutional right to DNA analysis for habeas corpus petitioners in order to prove their innocence of their convicted crime?
 - Response: In *Dist. Attorney’s Off. for Third Jud. Dist. v. Osborne*, 557 U.S. 52, 129 S. Ct. 2308, 2310 (2009), the Supreme Court held that criminal defendants

do not have a Federal due process right to post-trial DNA testing. In the District of Columbia, post-trial DNA testing is governed by 22 D.C. Code § 4133.

5. Under Supreme Court and District of Columbia precedents, what is the legal standard used to evaluate a claim that a facially neutral state governmental action is a substantial burden on the free exercise of religion? Please cite any cases you believe would be binding precedent.

- Response: Because the District of Columbia is a covered entity under the Religious Freedom Restoration Act (“RFRA”), the District “shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability,” unless “it demonstrates that application of the burden to the person . . . (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.” *Id.* § 2000bb-1(a) to (b). Numerous Supreme Court decisions apply this standard and are binding precedent, including *Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751 (2014); *Kennedy v. Bremerton Sch. Dist.*, 142 S. Ct. 2407, 2411 (2022); *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 113 S. Ct. 2217 (1993).

6. Under Supreme Court and District of Columbia precedents, what is the legal standard used to evaluate a claim that a state governmental action discriminates against a religious group or religious belief? Please cite any cases you believe would be binding precedent.

- Response: The standard is set forth above, in response to Question #5.

7. What is the standard in the District of Columbia for evaluating whether a person’s religious belief is held sincerely?

- Response: Binding Supreme Court precedent, including *Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751, 2757 (2014), has set forth that “[i]t is not for the Court to say that the religious beliefs of the plaintiffs are mistaken or unreasonable. . . . The Court’s ‘narrow function . . . is to determine’ whether the plaintiffs’ asserted religious belief reflects ‘an honest conviction’” (citing *Thomas v. Rev. Bd. of Indiana Emp. Sec. Div.*, 101 S. Ct. 1425, 1427 (1981)).

8. What is your understanding of the Supreme Court’s holding in *District of Columbia v. Heller*, 554 U.S. 570 (2008)?

- Response: In *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008), and *McDonald v. Chicago*, 130 S. Ct. 3020 (2010), the Supreme Court held that the Second and Fourteenth Amendments protect an individual right to keep and bear arms for self-defense. In *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S. Ct. 2111 (2022), the Supreme Court further recognized that to justify a firearm regulation, the government must demonstrate that the regulation is consistent with the Nation’s historical tradition of firearm regulation.

9. Have you ever taken the position in litigation or a publication that a federal or state statute was unconstitutional? If yes, please provide appropriate citations or supply copies of relevant filings.

- Response: I have never taken the position in litigation or publication that a federal or state statute was unconstitutional.

10. Since you were first contacted about being under consideration for this nomination, have you deleted or attempted to delete any content from your social media? If so, please produce copies of the originals.

- Response: I have not deleted or attempted to delete any content from my social media.

11. Do you believe America is a systemically racist country?

- Response: I do not believe that America is a systemically racist country. If I am confirmed as a judge, I would ensure that all individuals who appear before me are treated with respect and without bias.

12. Please describe your understanding of the duty of candor, if any, that nominees have to state their views on their judicial philosophy and be forthcoming when testifying before the Senate Judiciary Committee. *See* U.S. Const. art. II, § 2, cl. 2.

- Response: Nominees have a duty to state their views on their judicial philosophy and to be forthcoming when testifying before the Senate Judiciary Committee. Without a duty of candor, Senators would be unable to meaningfully question a nominee on his or her qualifications, judgment, and philosophy. The inability to explore such areas would render meaningless the Judiciary Committee's ability to provide a substantive recommendation to the full Senate.

**Opening Statement of Dr. Colleen Shogan
Homeland Security and Government Affairs Committee
September 21, 2022**

Thank you, Chairman Peters, Ranking Member Portman, and distinguished Members of the Committee.

Good morning. My name is Dr. Colleen Shogan, and my nomination to serve as the Eleventh Archivist of the United States is indeed the honor of a lifetime. I am likewise humbled by the opportunity to serve as the first nominated woman in the role.

Before I continue, I would like to thank my husband Rob for being here today. He has consistently supported my career, and I know this will continue if I am confirmed as Archivist. My family, including my 89-year-old father watching today from western Pennsylvania and my brother watching from Texas, has been instrumental in my success.

I must admit, this committee room is quite familiar to me. Over fifteen years ago, I attended meetings here as a congressional staffer. I never imagined I would be sitting on this side of the dais for a confirmation hearing.

My passion for the American story started in the public high school I attended outside Pittsburgh, with engaging teachers who taught United States history and government. As a first-generation college student in my family, I was fortunate to receive a first-class education, which allowed me to explore the development and evolution of American ideas and institutions.

My reverence for democratic principles, ideals, and governance led me to a career that included positions in academia, federal government service, and nonprofit management. Following my service in the Senate, I spent over a decade directly supporting Congress as a senior leader at the Congressional Research Service and the Library of Congress. I also served as the Vice-Chair of the Women's Suffrage Centennial Commission, which commemorated the anniversary of the 19th amendment without partisanship.

These positions, including the one I hold today at the White House Historical Association, have instilled in me the tremendous value of nonpartisanship and access to trusted sources. I am confident that my years of experience in these unique roles have prepared me well to serve as the Archivist of the United States.

The National Archives and Records Administration, often known as NARA, preserves the building blocks of our nation's democracy. NARA does this by enabling access to the government records which tell our national story in the words and images of the people who made history.

This is critical for several reasons. First, it provides citizens with answers about family heritage, military service, and governmental decisions. Citizen engagement with Archives' materials online and in-person through our nationwide system of archival research rooms and Presidential libraries is a top priority for NARA.

The National Archives also provides researchers, historians, genealogists, educators, students, and other stakeholders with trusted information about our shared past. In my own research, I have benefited from examining NARA's records. As a political scientist, I strongly believe that we cannot understand our nation's present condition without a comprehensive understanding of the paths which brought us here. Along with our other federal cultural institutions, NARA secures the repository of knowledge that enables such understanding – for scholars and citizens alike.

Additionally, the National Archives provides vital records management services and guidance to all three branches of the government and is leading the government-wide transition to electronic recordkeeping.

Most importantly, NARA safeguards government records in public trust to enable citizens - such as veterans - to claim their rights to hold their government accountable and to participate in the civic process.

If confirmed, I will have many hills to climb in this position. I do not assume these challenges lightly. To succeed, we will need to find creative ways to become more efficient, to capitalize upon public-private partnerships, and to engage previously underserved communities in meaningful ways.

Of course, NARA must do this as technologies improve at a lightning speed. Government is not always considered nimble when it comes to innovation, but the National Archives can serve as a leader in its transition to a primarily digital future. This will require investing in the Archives talented workforce and making smart business decisions that will propel NARA forward.

In a private meditation, Abraham Lincoln likened the principles of the Declaration of Independence to the "apple of gold" – a phrase contained in the Book of Proverbs. Lincoln knew it was his task to move the nation toward a "more perfect" realization of these principles. As the 250th anniversary of our country approaches, that hard work continues. If confirmed, I look forward to sharing the treasured collection of the National Archives with all Americans.

REDACTED

HSGAC BIOGRAPHICAL QUESTIONS FOR EXECUTIVE NOMINEES

1. Basic Biographical Information

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
Archivist of the United States	August 3, 2022

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Colleen	Joy	Shogan	

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			Street: 1610 H Street NW		
City: Arlington	State: VA	Zip: 22207	City: Washington	State: DC	Zip: 20006

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<small>Check if Maiden Name</small>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
None					Est <input type="checkbox"/>	Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1975	McKeesport, PA

<i>Marital Status</i>					
Check All That Describe Your Current Situation:					
Never Married	Married	Separated	Annulled	Divorced	Widowed
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<i>Spouse's Name (current spouse only)</i>			
<u>Spouse's First Name</u>	<u>Spouse's Middle Name</u>	<u>Spouse's Last Name</u>	<u>Spouse's Suffix</u>
Robert	Elliott	Raffety	

<i>Spouse's Other Names Used (current spouse only)</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	Check if Maiden Name	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
None					Est <input type="checkbox"/>	Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Children's Names (if over 18)</i>			
First Name	Middle Name	Last Name	Suffix
None			

2. Education

List all post-secondary schools attended.

<u>Name of School</u>	<u>Type of School</u> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	<u>Date Began School</u> (month/year) (check box if estimate)	<u>Date Ended School</u> (month/year) (check box if estimate) (check "present" box if still in school)	<u>Degree</u>	<u>Date Awarded</u>
Boston College	University	9/1993 Est <input type="checkbox"/>	5/1997 Est Present <input type="checkbox"/> <input type="checkbox"/>	BA	May 1997
Yale	University	9/1997 Est <input type="checkbox"/>	5/2002 Est Present <input type="checkbox"/> <input type="checkbox"/>	PhD.	May 2002
		Est <input type="checkbox"/>	Est Present <input type="checkbox"/> <input type="checkbox"/>		
		Est <input type="checkbox"/>	Est Present <input type="checkbox"/> <input type="checkbox"/>		

3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

Type of Employment (Active Military Duty Station, National Guard/Reserve, USPHS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other	Name of Your Employer/Assigned Duty Station	Most Recent Position Title/Rank	Location (City and State only)	Date Employment Began (month/year) (check box if estimate)	Date Employment Ended (month/year) (check box if estimate) (check "present" box if still employed)
Non-Government	Kennywood Amusement Park	Guest Services	West Mifflin, PA	May 1993 Est <input type="checkbox"/>	August 1995 Est <input type="checkbox"/>
Non-Government/Work Study	Boston College	Library Assistant	Chestnut Hill, MA	September 1995 Est <input type="checkbox"/>	August 1997 Est <input type="checkbox"/>
Non-Government/Work Study	Boston College	Tutor for Department of Athletics	Chestnut Hill, MA	September 1996 Est <input type="checkbox"/>	May 1997 Est <input type="checkbox"/>
Non-Government	Professor Robert Faulkner, Boston College	Research Assistant	Chestnut Hill, MA	Jan 1997 Est <input type="checkbox"/>	May 1997 Est <input type="checkbox"/>
Non-Government	Professor Kay Schlozman and Professor Sidney Verba, Boston College and Harvard University	Research Assistant	Chestnut Hill, MA and Cambridge, MA	June 1996 Est <input type="checkbox"/>	1997 Est <input checked="" type="checkbox"/>
Non-Government/Work Study	Yale University	Office Assistant for Athletics Department	New Haven, CT	September 1997	May 1998
Non-Government	Professor Stephen Skowronek, Professor David Mayhew, Professor Norma Thompson	Research Assistant	New Haven, CT	September 1997	May 2002
Non-Government	Professor Stephen Skowronek and Professor Ian Shapiro	Teaching Assistant (two semesters)	New Haven, CT	September 2001	May 2002
Non-Government	George Mason University	Assistant Professor, Government	Fairfax, VA	August 2002	December 2006

Non-Government (fellowship)	American Political Science Association/Office of Senator Joseph Lieberman	Legislative Assistant/Congressional Fellow	Washington, DC	December 2005	December 2006
Federal Government	Office of Senator Joseph Lieberman	Legislative Assistant	Washington, DC	December 2006	April 2008
Federal Government	Library of Congress/Congressional Research Service	Section manager, Director of Government & Finance Division, Senior Adviser to Director, Deputy Director	Washington, DC	April 2008	2015
Federal Government	Library of Congress/National and International Outreach	Deputy Director	Washington, DC	2015	2018
Federal Government	Library of Congress/Library Collections and Services	Assistant Deputy Librarian	Washington, DC	2018	January 2020
Federal Government (non-paid position)	Women's Suffrage Centennial Commission	Commissioner and then Vice-Chair from 2019-2020	Washington, DC	2018	December 2020
Non-Government	White House Historical Association	Senior Vice President	Washington, DC	February 2020	Present
Non-Government (non-paid position)	Women's Suffrage National Monument Foundation	Chair	Washington, DC	June 2022	Present
Non-Government	Georgetown University	Adjunct Professor of Government	Washington, DC	January 2008	Present
Non-Government	Aspen Institute	Seminar Leader	Washington, DC	November 2018	Present

(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)
America 250 Commission (non-paid)	History Advisory Council	2021 Est <input type="checkbox"/>	Present Est <input type="checkbox"/> Present <input type="checkbox"/>
U.S. Capitol Historical Society	Scholars Council	2021 Est <input type="checkbox"/>	Present Est <input type="checkbox"/> Present <input type="checkbox"/>
		Est <input type="checkbox"/>	Est <input type="checkbox"/> Present <input type="checkbox"/>

4. Potential Conflict of Interest

(A) Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the National Archives and Records Administration's Designated Agency Ethics Official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the agency's Designated Agency Ethics Official and has been provided to the Committee. I am not aware of any other potential conflicts of interest.

(B) Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration or execution of law or public policy, other than while in a federal government capacity.

None

5. Honors and Awards

List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.

Workhouse Arts Center, Arts & History Award Recipient for Women's Suffrage Centennial Commission, 2020
 Librarian of Congress Special Achievement Award, 2015
 112th Congress Stennis Congressional Staff Fellowship (2011-2012)
 2011 nominee for Congressional Quarterly Award (best paper on legislative studies given at 2011 American Political Science Association meeting)
 2005 Steiger American Political Science Congressional Fellow (given annually to the "most promising" fellow each year)
 Statewide runner-up for Virginia's "Outstanding Young Faculty" award, 2006
 National Science Foundation (NSF) Graduate Fellow for Political Science, 1999-2001
 Robert M. Leylan Prize Dissertation Fellowship Award for the Social Sciences, Yale
 Phi Beta Kappa and Order of the Cross and Crown, Boston College

6. Memberships

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam's Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).

<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate.)	<u>Position(s) Held</u>
American Political Science Association (APSA)	2001-present	Previous APSA Council (Governing body of organization)
National Capital Area Political Science Association (NCAPSA)	2010 – present	Past President; currently serves on Board
Cosmos Club	2015-2020	
Georgetown Sands Homeowner Association (Duck, NC)	2021-present	Currently serve on Board of the HOA
Friends of Mount Vernon	2002-present	
Friends of the Library of Congress	2020-present	Member of Library of Congress alumni group

7. Political Activity

(A) Have you ever been a candidate for or been elected or appointed to a political office?

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service (if applicable)</u>
NONE			

(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>
NONE			

(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>
NONE		

8. Publications and Speeches

(A) List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet. Please provide the Committee with copies of all listed publications. In lieu of hard copies, electronic copies can be provided via e-mail or other digital format.

<u>Title</u>	<u>Publisher</u>	<u>Date(s) of Publication</u>
See Attached		

(B) List any formal speeches you have delivered during the last five years and provide the Committee with copies of those speeches relevant to the position for which you have been nominated. Include any testimony to Congress or any other legislative or administrative body. These items can be provided electronically via e-mail or other digital format.

<u>Title/Topic</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
Social Media and Changing Norms of Representation	I gave similar talks on this topic at the 2019 APSA Conference, at the University of Southampton in the UK, and at the United States Capitol Historical Society event.	2018 – 2019; the speech was broadcast on CSPAN in 2018. https://www.c-span.org/video/?449571-1/social-media-congress-democracy
Noteworthy Inaugural Addresses	Broadcast on CSPAN	January 19, 2021 https://www.c-span.org/video/?508285-1/noteworthy-inaugural-addresses
Women's Suffrage Centennial	Washington Journal appearance on CSPAN	August 16, 2020 https://www.c-span.org/video/?474715-3/washington-journal-colleen-shogan-discusses-ratification-19th-amendment

(C) List all speeches and testimony you have delivered in the past ten years, except for those the text of which you are providing to the Committee.

<u>Title</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
Social Media and Interactive Representation for the United States Congress	British Library (London)	2017
No title, but it was listed as "Keynote Address"	Association for Centers for Study of Congress (Library of Congress)	2017
Lecture on Congress and current challenges	University of Pennsylvania in Washington, DC	2014
National Defense Authorization Act	Congressional Budget Office	2014
Presentation on the 113 th Congress	Government Accountability Office (GAO)	2013

9. Criminal History

Since (and including) your 18th birthday, has any of the following happened?

- Have you been issued a summons, citation, or ticket to appear in court in a criminal proceeding against you? (Exclude citations involving traffic infractions where the fine was less than \$300 and did not include alcohol or drugs.). NO.
- Have you been arrested by any police officer, sheriff, marshal or any other type of law enforcement official? NO.
- Have you been charged, convicted, or sentenced of a crime in any court? NO.
- Have you been or are you currently on probation or parole? NO.

- Are you currently on trial or awaiting a trial on criminal charges? NO.
- To your knowledge, have you ever been the subject or target of a federal, state or local criminal investigation? NO.

If the answer to any of the questions above is yes, please answer the questions below for each criminal event (citation, arrest, investigation, etc.). If the event was an investigation, where the question below asks for information about the offense, please offer information about the offense under investigation (if known).

- A) Date of offense:
- a. Is this an estimate (Yes/No):
- B) Description of the specific nature of the offense:
- C) Did the offense involve any of the following?
- 1) Domestic violence or a crime of violence (such as battery or assault) against your child, dependent, cohabitant, spouse, former spouse, or someone with whom you share a child in common: **Yes / No**
 - 2) Firearms or explosives: **Yes / No**
 - 3) Alcohol or drugs: **Yes / No**
- D) Location where the offense occurred (city, county, state, zip code, country):
- E) Were you arrested, summoned, cited or did you receive a ticket to appear as a result of this offense by any police officer, sheriff, marshal or any other type of law enforcement official: **Yes / No**
- 1) Name of the law enforcement agency that arrested/cited/summoned you:
 - 2) Location of the law enforcement agency (city, county, state, zip code, country):
- F) As a result of this offense were you charged, convicted, currently awaiting trial, and/or ordered to appear in court in a criminal proceeding against you: **Yes / No**
- 1) If yes, provide the name of the court and the location of the court (city, county, state, zip code, country):
 - 2) If yes, provide all the charges brought against you for this offense, and the outcome of each charged offense (such as found guilty, found not-guilty, charge dropped or "nolle pros," etc). If you were found guilty of or pleaded guilty to a lesser offense, list separately both the original charge and the lesser offense:
 - 3) If no, provide explanation:
- G) Were you sentenced as a result of this offense: **Yes / No**
- H) Provide a description of the sentence:

- I) Were you sentenced to imprisonment for a term exceeding one year: **Yes / No**
- J) Were you incarcerated as a result of that sentence for not less than one year: **Yes / No**
- K) If the conviction resulted in imprisonment, provide the dates that you actually were incarcerated:
- L) If conviction resulted in probation or parole, provide the dates of probation or parole:
- M) Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: **Yes / No**
- N) Provide explanation: N/A.

10. Civil Litigation and Administrative or Legislative Proceedings

(A) Since (and including) your 18th birthday, have you been a party to any public record civil court action or administrative or legislative proceeding of any kind that resulted in (1) a finding of wrongdoing against you, or (2) a settlement agreement for you, or some other person or entity, to make a payment to settle allegations against you, or for you to take, or refrain from taking, some action. Do NOT include small claims proceedings.

<u>Date Claim/Suit Was Filed or Legislative Proceedings Began</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
NONE				

(B) In addition to those listed above, have you or any business of which you were an officer, director or owner ever been involved as a party of interest in any administrative agency proceeding or civil litigation? Please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

<u>Date Claim/Suit Was Filed</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
NONE				

(C) For responses to the previous question, please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

11. Breach of Professional Ethics

(A) Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, professional association, disciplinary committee, or other professional group? Exclude cases and proceedings already listed.

<u>Name of Agency/Association/ Committee/Group</u>	<u>Date Citation/Disciplinary Action/Complaint Issued/Initiated</u>	<u>Describe Citation/Disciplinary Action/Complaint</u>	<u>Results of Disciplinary Action/Complaint</u>
NONE			

(B) Have you ever been fired from a job, quit a job after being told you would be fired, left a job by mutual agreement following charges or allegations of misconduct, left a job by mutual agreement following notice of unsatisfactory performance, or received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as violation of a security policy? NO.

12. Tax Compliance

(This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

REDACTED

13. Lobbying

In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State). NO.

14. Outside Positions

☐ See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

For the preceding ten calendar years and the current calendar year, report any positions held, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

<u>Name of Organization</u>	<u>Address of Organization</u>	<u>Type of Organization</u> (corporation, firm, partnership, other business enterprise, other non-profit organization, educational institution)	<u>Position Held</u>	<u>Position Held From</u> (month/year)	<u>Position Held To</u> (month/year)

15. Agreements or Arrangements

X ☐ See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

As of the date of filing your OGE Form 278, report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment.

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of Government service; (3) continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits.

<u>Status and Terms of Any Agreement or Arrangement</u>	<u>Parties</u>	<u>Date</u> (month/year)

16. Additional Financial Data

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

REDACTED

SIGNATURE AND DATE

I hereby state that I have read the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

Colleen Shogren

122

This 9 day of August, 2022

25

Chairman Gary Peters

Post-Hearing Questions for the Record

Submitted to Colleen Shogan

Nominations of Colleen Shogan to be Archivist of the United States, NARA; Vijay Shanker to be an Associate Judge, DC Court of Appeals; and Laura Crane, Leslie Meeks, and Veronica Sanchez to be Associate Judges, DC Superior Court

Wednesday, September 21, 2022

You said in your hearing that NARA has an incredibly important role in promoting government transparency and public access to records.

- To this end, how will you support the Office of Government Information Services (OGIS) in its work as FOIA ombudsman for the federal government?

OGIS serves the role as the federal government's FOIA ombudsman. The office reviews FOIA policies and procedures, and also attempts to resolve disputes between agencies and FOIA requestors. OGIS advocates for the FOIA process itself rather than individual FOIA stakeholders. If confirmed, I look forward to learning more about OGIS and its unique role in ensuring access to government records. Since OGIS is an educator for citizens about FOIA and its sometimes complex processes, I would like to review the communications strategy for OGIS. Where is OGIS sharing its information and are those mechanisms maximizing reach? What is the outreach strategy for OGIS? I would pay careful attention to the recommendations of the FOIA Advisory Committee, which in its most recent term produced seven recommendations designed to "reimagine" and restructure OGIS along with recommendations for the FOIA process itself.

- How will you support the important work of the National Declassification Center and the Public Interest Declassification Board?

The Public Interest Declassification Board serves an important role by promoting the fullest possible public access to a thorough, accurate, and reliable documentary record of significant U.S. national security decisions and activities. It also advises the President and other executive branch officials on the identification, collection, review for declassification, and release of declassified records and materials of archival value and advises the President and other executive branch officials on policies regarding the classification and declassification of national security information. I am aware that the Public Interest Declassification Board has made a number of recommendations to

modernize the classification system since their first written report in 2008. Many of their recommendations are outside of the scope of the authority of the Archivist to implement. However, if I were confirmed as Archivist of the United States, I would review all of the recommendations made by the Board, from their earliest to their most recent, and look for opportunities to improve the work of NARA and to otherwise advocate for the modernization of the classification system.

Recent revelations of text message and other phone data deletion at the Department of Homeland Security and the Department of Defense indicate that these agencies – and possibly others – are not adequately fulfilling their obligation to ensure preservation of electronic records.

- In your view, what gaps in federal recordkeeping practices led to this potentially significant loss of public records?

NARA and the rest of the Executive branch not only need to complete the transition to electronic record keeping, but they also need to update their records management programs so that they keep pace with how agencies are creating and using records. Truly transitioning to electronic record keeping requires that records management be integrated with information technology system planning, acquisition, and development. In addition, records management needs to be elevated and made visible to leadership. Records management needs to be incorporated into business processes, and not treated as a stand-alone program or as an afterthought. If I am confirmed as Archivist of the United States, I will work to support the transition by ensuring that NARA is providing agencies with the guidance and policies needed to support them and I will be open and transparent about progress and challenges.

- What steps would you take as Archivist to prevent such incidents in the future?

If confirmed, I plan to increase NARA's oversight of federal agency compliance with records management laws, regulations, and policies. In particular, I will focus on oversight related to electronic records, seeking to ensure agencies consider records management implications earlier in the records lifecycle and align compliance with investments in information technology and oversight mechanisms.

As you know, NARA recently signed a Memorandum of Understanding (MOU) with the George W. Bush Library Foundation to turn over control of the museum operations to the foundation. While the final agreement is not yet finalized, the prospective changes would mark a significant shift in NARA's approach to presidential libraries.

- If confirmed, how would you ensure that public access to important presidential records and educational resources remains impartial and unrestricted despite the changes at the Bush Library?

As I understand it, the agreement in no way affects the continued and impartial access to the Presidential records, which, in accordance with the Presidential Records Act, remain at all times in the exclusive control of NARA and its George W. Bush Library. In fact, the agreement will enable NARA to digitize all of the unclassified records of the George W. Bush presidency. Making these records available online dramatically lowers barriers to access to those holdings. The agreement also ensures that NARA will maintain its own education program, and, if confirmed, I will ensure that it continues to do so in a non-political manner. With control of the museum transferring to the George W. Bush Library Foundation, I will, if confirmed, a) advocate that the Foundation involve outside experts to ensure balance in its exhibits; b) seek to ensure that NARA staff are properly consulted in the use and display of its documents; and c) ensure that signage and other materials clearly indicate the distinction between the NARA and foundation-controlled spaces, services, and activities.

- How do you envision NARA's role in future presidential libraries?

Presidential Libraries are an incredibly important component of NARA's mission. Presidential Libraries provide access to the valuable records of a presidential administration, for scholars and interested citizens alike. They also share these records through educational programs and exhibits.

The Presidential library model is changing. There is no requirement in law that a former President build a Presidential Library. Instead of building a Presidential Library that is operated by NARA, presidents and their foundations are now moving towards building presidential centers independent of NARA. Under any model, the Presidential records themselves will always remain in the legal and physical custody of NARA, as required by the Presidential Records Act.

The advantage of this changing approach is that more NARA resources can be spent on the access review, processing, and digitization of Presidential records in the future, perhaps relying upon new staffing models that can maximize the management of records across administrations.

In previous iterations of presidential libraries that were built by private funding and then transferred to NARA for operation, NARA must be careful to ensure that the use of such records in exhibits and education is done so with an attention to accuracy, transparency, objectivity, and nonpartisanship.

If confirmed, what actions will you take to strengthen the relationship between NARA and the official archives of the states and territories?

If confirmed, I will consult with the Council of State Archivists (CoSA) and other stakeholders to explore areas of potential collaboration and communication.

**Post-Hearing Questions for the Record
Submitted to Colleen J. Shogan
From Senator Josh Hawley**

**“Nomination Hearing”
September 22, 2022**

1. During your testimony, several Senators raised concerns about public posts you made on Twitter. You have since locked your Twitter account. Please provide copies of all posts you have ever made public on Twitter.

My personal Twitter account is comprised of posts about my mystery novels, events at the White House Historical Association, Pittsburgh sports teams, travels, and my dog. It was made private months ago, before I was nominated as Archivist.

2. During your testimony, several Senators raised concerns about your publication entitled *Anti-Intellectualism in the Modern Presidency: A Republican Populism*. In that article, you wrote, “Republicans tend to exhibit anti-intellectual qualities, and Democrats coalesce on the intellectual tail of the continuum.” What did you mean by this statement?

Republican presidential rhetoric often results in more effective communication with Americans.

3. If confirmed, what steps will you take to ensure that you are and appear to be non-partisan and will respect the dignity of all citizens—whether you consider them “anti-intellectual” or “intellectual”?

If I am confirmed as Archivist of the United States, my vision is that all citizens use the records of the National Archives to learn about our shared history as Americans. If confirmed, I will work tirelessly to welcome all Americans to engage with these resources, both in person and online.

Senator James Lankford

Post-Hearing Questions for the Record

Submitted to Colleen J. Shogan

Nominations of Colleen J. Shogan to be Archivist of the United States, National Archives and Records Administration; Vijay Shanker to be an Associate Judge, District of Columbia Court of Appeals; and Laura E. Crane, Leslie A. Meek, and Veronica M. Sanchez to be Associate Judges, Superior Court of the District of Columbia

September 21, 2022

Question: On January 8, 2020, NARA, under former Archivist David Ferriero, issued a press release on the status of the Equal Rights Amendment. The release said “NARA defers to DOJ on this issue and will abide by the OLC opinion, unless otherwise directed by a final court order.”

- Do you agree with that standard? Yes.

Question: At the top of the National Archives Catalog is a banner that states: “Potentially Harmful Content Alert: See NARA’s Statement.” The banner is linked to the full statement above. However, the banner still remains at the top of the page as the user accesses and reviews any/all digital documents. Notably, a user can access the Archives America’s Founding Documents page linked to the Declaration of Independence, Constitution, and Bill of Rights. If a user were to access the digitized version of any of the founding documents, the Potentially Harmful Content Alert is at the top of the page.

- What is the difference between adding context to a document vs. adding a blanket trigger warning for potentially offensive content? Should documents in our national archives ever be labeled as potentially offensive? If so, what is the standard you would apply?

I do not believe our founding documents such as the Constitution and the Declaration of Independence are harmful or offensive. Moreover, I do not believe that NARA should label any individual document as potentially harmful; and I do not believe it is reasonable or possible for NARA to determine what is offensive for any individual user. It does seem reasonable to alert users – including the many young students who use the Catalog – that they may come across difficult material.

The National Archives should, and does, make its records available in its online Catalog to all users equally, and does not censor those records. Context is given to records through archival description that conveys the function, use, scope, and content of the

materials. However, some of the more than 200 million original records in the Catalog contain exceptionally graphic images, racist, violent, or outdated language, and more. The content warning is not applied to any description of any document; it is a blanket heading on any search results page.

- If confirmed, will you commit to a review of the language in the “Potentially Harmful Content” statement?

Yes.

Question: NARA developed an internal task force to suggested policies “in pursuit of an equitable and inclusive environment for all employees and customers.” If confirmed, how are you going to ensure that future task forces include a variety of perspectives and experts to balance out findings?

If confirmed, I am committed to including a representative range of views on panels, event rosters, task forces, and other NARA functions. In the *Federalist*, James Madison lauded the heterogeneous nature of American democracy as its strength, and I agree with his assessment.

Question: NARA is in a very public conflict over Presidential Records. You’ve stated that the voluntary return of documents is preferred but when that is exhausted, and there may be a violation of law, you would go to DOJ. That is a lot of grey area where you would have to exercise your judgment.

- Where does voluntary cooperation end and a potential violation of law begin?

Former Archivist of the United States David S. Ferriero stated in a press statement on February 7, 2022, that “NARA pursues the return of records whenever we learn that records have been improperly removed or have not been appropriately transferred to official accounts.” It is my understanding that NARA always attempts to work cooperatively with whoever holds the records in order to obtain their voluntary return. If the voluntary process does not result in the return of records and communications have ceased, then NARA may, as the Federal Records Act authorizes, initiate “action through the Attorney General for the recovery of records unlawfully removed and for other redress provided by law.” Like all federal agencies, NARA may also notify the Department of Justice if there is concern that there has been a violation of federal law.

- Note: we reached out to Heritage to ask if they had any information on how past Presidents have handled documents and NARA has worked to get them back.

Unfraternally, they are unaware of any similar situation in the past. If prior Presidents took classified documents the return of those documents did not escalate to this level.

- You could ask her to commit to briefing the committee on the NARA/DOJ process in seeking the return of classified documents and any precedent.

Question: Do you commit to keeping all members of this committee, majority or minority, informed on issues that fall to NARA?

- Will you commit to providing a briefing to the committee if you are confirmed?

If I am confirmed, I will be responsive to the Committee on issues affecting NARA, consistent with Department of Justice guidance.

Question: Your book *Moral Rhetoric of American Presidents* explores an interesting topic, what were your key intentions and takeaways as you worked on that project. Have those changed over time?

I wanted to know how presidents utilized moral and religious language in rhetorical arguments to augment their constitutional authority. The goal was studying the lens of presidential moral leadership through speech. I have not researched this topic since the book was published in 2007.

Question: In 2007, you wrote about anti-intellectualism in the Presidency and that Republicans exhibited “anti-intellectual qualities” partly because of the transformation of the South and the religious right.

- Do you still hold that view?
- Can you explain what you mean by “anti-intellectualism”?
- In a tweet from January 10, 2021, you linked this article to the events of January 6, 2021. What was your intention in making that connection?

Republican presidents have been successful electorally, in part, because they explain policies and principles in a way that resonate with Americans in a clear, demonstrative fashion. For example, George W. Bush’s rhetorical style resonated better with Americans than Al Gore’s. The tweet, which was in my personal capacity, was a response to published writings about noteworthy changes in political institutions and norms. It was not intended to link any president in the article to the events of January 6, 2021.

Opening Statement of Leslie A. Meek
Nominee to be an Associate Judge of the District of Columbia Superior Court

Good morning Chairman Peters, Ranking Member Portman and members of the Committee. Thank you for your time and consideration of my nomination to serve as Associate Judge on the District of Columbia Superior Court. I am honored to be here. I am also honored by President Joseph Biden's nomination of me for the District of Columbia Superior Court and I thank him for it. I am thankful to the members of the District of Columbia Judicial Nominations Commission and its Chair, Judge Emmet Sullivan, for recommending me to the White House.

I am thankful for the support of my family and friends and all of the love they share with me as I journey towards this endeavor. I am the proud mother of two wonderful adults, Lauren Meek a burgeoning artist in New York City and Kendrick Meek Jr. a third-year law student at the University of Miami. Throughout this process they have been tremendous motivators, with kind and generous encouragement. I could not have asked for better children or cheerleaders.

I am a first-generation American, born to parents who immigrated to the United States from Jamaica. It was their intention to come to this country and live the American dream, and I am the personification of those dreams.

My mother, Lois Eccleston-Capp, always gave me the space to dream, and the support to accomplish my dreams; she is my heart and I thank her for her enduring support, her prayers, and her faith in me.

I am thankful to my late grandmother, Lucille Butler-James, who didn't have the privilege of attending college herself, but seemingly every day of my young life, impressed upon me the importance of an education.

I am thankful to my late father, Harold Dixon, who taught me by example how determination, focus, and industry can overcome obstacles.

I thank my late mother-in-law, former Congresswoman Carrie Meek for all that she taught me, her friendship, and her love. Carrie frequently shared her philosophy, "To be a true public servant, you have to love people." Recalling this mantra reminds me that I am on the right track.

I am currently an Administrative Law Judge with the District of Columbia Government. During the last 16 years I have successfully served the District as both an Administrative Law Judge and Administrative Appeals Judge. In that time, I have adjudicated over 7,000 cases concerning a number of entities, including the Department of Employment Services, Department of Health, Department of Public Works, Department of Energy and the Environment, Department of Consumer and Regulatory Affairs, Office of Tax and Revenue, and the Department of Transportation.

My 16 years of adjudicatory experience has taught me the importance of maintaining a respectful and courteous judicial temperament, and should I be fortunate enough to be confirmed, I remain committed to humbly serving the District's residents with unbiased, sound, and efficient judicial review of the cases that come before me.

My legal career began when I was hired out of law school to serve as a prosecutor for the Miami-Dade States Attorney Office. During that time, I prosecuted criminal cases in the County Court. I

then served as General Counsel to United Teachers of Dade and as a prosecuting attorney for the City of Miami and the State of Florida Comptroller's Office. In these positions I litigated civil, labor and employment law cases before administrative courts. These experiences honed my litigation skills and prepared me well for my position as a judge.

My professional experiences have given me a solid understanding of the role of adjudicator and the importance of ensuring that justice is applied fairly and impartially. I am eager to use my skills to serve the District of Columbia as a Superior Court Associate Judge and I stand ready to answer any of your questions as you consider entrusting me with this very important position.

REDACTED

**QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS,
UNITED STATES SENATE**

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

1. **Full name (include any former names used).**
 Leslie Amenia Meek
 Leslie Amenia Dixon
 Candie Dixon
2. **Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).**
 I am a citizen of the United States.
3. **Current office address and telephone number.**
 D.C. Office of Administrative Hearings
 441 4th Street NW
 Washington, D.C. 20001
 202-478-9137
4. **Date and place of birth.**
 May 9, 1965. Brooklyn, New York
5. **Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).**
 I am divorced.
6. **Names and ages of children. List occupation and employer's name if appropriate.**
 Lauren Meek, 27. Lauren is a self-employed artist in Brooklyn, New York.
 Kendrick Meek Jr., 25. Kendrick is a student at the University of Miami School of Law.
7. **Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and date each degree was received. Please list dating back from most recent to earliest.**
 National Judicial College Training Courses, 2008, 2010, 2011, 2014, 2015. No degree obtained.

Case Western Reserve School of Law, 1987 – 1990. Juris Doctorate received May 1990.

Fisk University, 1983 – 1987, Bachelor of Arts received May 1987.

8. **Employment record. List all jobs held since college, other than legal experience covered in question 16, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest. If you have served in the US military, please list dates of service, rank or rate, serial number, and type of discharge received.**

May 1989 – August 1989
Ohio Attorney General's Office
615 W. Superior Ave
Cleveland, OH 44113
Summer Intern

May 1988 – August 1988
Foley's Department Store
500 Greenspoint Mall
12300 North Freeway
Houston, TX 77060
Salesperson

9. **Honors and awards. List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.**

Women of Prominence Award, Fisk University (2018)

So Others Might Eat Recognition (2008)

Congressional Black Caucus Recognition (2008)

Brown Family Scholarship, Case Western Reserve University (1990)

Black Law Student's Association Bar Study Scholarship (1990)

Case Western Reserve School of Law Half Tuition Scholarship (1987)

NAACP Scholarship, Fisk University (1986)

Chicago Fisk Club Scholarship (1983)

10. **Business relationships. List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or**

educational or other institution.

L. Meek Consulting, P.A. (also known as Leslie Meek, Esq., P.L.)
Owner and Operator (2003 – 2006)

Fisk University
Board of Trustees (2008 – 2012)

Lab School of Washington
Board of Directors (2012 – 2014)

11. Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.

District of Columbia Judicial Council and Washington Bar Association
Member (2007 – present)

National Association of Administrative Law Judiciary
Member (2007 – 2016)

District of Columbia Association of Administrative Law Judiciary
President-Elect (2013)
Vice-President (2011 – 2013)

American Bar Association
Member (2001 – present)

National Bar Association
Member (2000 – 2003)

Florida Bar Grievance Committee
Member (1997 – 2000)

12. Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other organizations, other than those listed in response to Question 11. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.

Alpha Kappa Alpha Sorority Inc.
Member (1986 – present)
Chaplain-Capital City Pearls Interest Group (2021 – present)

Congressional Black Caucus Foundation
Board of Directors (2007 – 2008)

Chair of the Congressional Black Caucus Spouses (2007 – 2008)
Member (2006 – 2008)

Miami-Dade Vizcaya Governance Task Force
Member (2000 – 2003)

Camillus House Capital Campaign Board
Board Member (2000 – 2002)

Miami-Dade County Advisory Board for Minority and Women Owned Businesses
Member (1999 – 2001)

Jackson Memorial Hospital Foundation
Committee Member (1999 – 2001)

Alpha Kappa Alpha Sorority Inc. limits membership to women. Otherwise, none of the above listed organizations discriminated in the past or currently discriminates on the basis of race, sex, or religion.

- 13. Court admissions. List all courts in which you have been admitted to practice, with dates of admission and lapses in admission if any such memberships have lapsed. Please explain the reason for any lapse in membership. Please provide the same information for any administrative bodies which require special admission to practice.**

United States Supreme Court Bar
Admitted 2015

District of Columbia Bar
Admitted 2013

Florida Bar
Admitted 1992

There have been no lapses in membership.

- 14. Published writings. List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited.**

I have no published writings.

- 15. Speeches. List the titles of any formal speeches you have delivered during the last five (5) years and the date and place where they were delivered. Please provide the Committee with four (4) copies of any of these speeches.**

I have not delivered any formal speeches during the last five years.

16. Legal career.

A. Describe chronologically your law practice and experience after graduation from law school, including:

(1) Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;

I have not served as a law clerk to a judge.

(2) Whether you practiced alone, and if so, the addresses and dates;

I have not practiced law alone.

(3) The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.

1990 – 1991
Miami State Attorney's Office
1350 NW 12th Avenue
Miami, FL 33136
Certified Legal Intern

1991 – 1992
Florida Attorney General's Office
107 Gaines Street
Tallahassee, FL 32301
Legal Intern

1992 – 1994
State of Florida Comptroller's Office
(Now the Florida Department of Financial Services)
General Counsel's Office
200 East Gaines Street
Tallahassee, FL 32399
Assistant General Counsel

1994 – 1995
City of Miami Attorney's Office
444 S.W. 2nd Avenue, Suite 945
Miami, FL 33130
Assistant City Attorney

1995 – 2003
United Teachers of Dade

2200 Biscayne Blvd
Miami, FL 33186
Assistant General Counsel (1995 – 2000)
General Counsel (2000 – 2003)

2006 – 2014
D.C. Department of Employment Services
Office of Hearings and Adjudication
4058 Minnesota Ave NE
Washington, D.C. 20019
Administrative Law Judge (2006 – 2008 and 2009 – 2014)
Administrative Appeals Judge (2008 – 2009)

2014 – present
D.C. Office of Administrative Hearings
441 4th Street NW
Washington, D.C. 20001
Administrative Law Judge

B. Describe the general character of your law practice, dividing it into periods with dates if its character has changed over the years.

For most of my career as a litigator (1990 to 2003), I specialized in employment law. I litigated planning and zoning issues for the City of Miami and litigated banking and finance issues while working for the Florida Comptroller.

From 2006 to 2014, I held the position of Administrative Law Judge with the District of Columbia Department of Employment Services, Office of Hearings and Adjudication, and adjudicated worker's compensation cases. The nature of my employment changed briefly from 2008 to 2009 when I was appointed as an Appellate Administrative Law Judge with the Compensation Review Board; in that role, I adjudicated appeals of decisions made in worker's compensation cases.

Since 2014, I have served as an Administrative Law Judge with the District of Columbia Office of Administrative Hearings. I adjudicate cases involving the Rental Housing Commission, Department of Employment Services, District of Columbia Public Schools, D.C. For Hire Vehicles, Department of Public Works, Department of Health, Department of Consumer and Regulatory Affairs, Office of Tax and Revenue, Office of Planning, Department of Transportation, Department of Energy and Environment, and Metropolitan Police Department.

C. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

While working as a litigator for city and state agencies (1990 to 1995), my clients were typically the government. While working for the United Teachers of Dade

(1995 to 2003) my clients were the Union itself and, teachers and paraprofessionals who were union members.

D. Describe the general nature of your litigation experience, including:

- (1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.**

I appeared in court daily while at the Miami State Attorney's Office (1990 to 1991). I appeared in court weekly while working at the Florida Comptroller's Office (1992 to 1995). I appeared in court at least twice a week while working for the United Teachers of Dade (1995 to 2003).

- (2) What percentage of these appearances was in:**

- (a) Federal courts (including Federal courts in D.C.);**

0%

- (b) State courts of record (excluding D.C. courts);**

10%

- (c) D.C. courts (Superior Court and D.C. Court of Appeals only);**

0%

- (d) other courts and administrative bodies.**

90%

- (3) What percentage of your litigation has been:**

- (a) civil;**

75%

- (b) criminal.**

25%

- (4) What is the total number of cases in courts of record you tried to verdict or judgment (rather than settled or resolved, but may include**

cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.

I have tried approximately 1,000 cases to verdict or judgement. I was sole counsel or lead counsel on all of these cases.

(5) What percentage of these trials was to

(a) a jury;

10%

(b) the court (include cases decided on motion but tabulate them separately).

90%

17. **Describe the five (5) most significant litigated matters which you personally handled. Provide citations, if the cases were reported, or the docket number and date if unreported. Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case. Identify the party/parties you represented and describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case, (a) the date of representation; (b) the court and the name of the judge or judges before whom the case was litigated; and (c) the name(s) and address(es) and, telephone number(s) of co-counsel and of the principal counsel for the other parties.**

1. Owen M. Harris v. Frank Brogan, Case No. 95-2977, Court of Appeal of Florida, Third District (June 26, 1996) (before Judges Barkdull, Levy and Green)

I represented Owen Harris a Miami-Dade County educator and member of the United Teachers of Dade Teacher's Union. Frank Brogan, Florida's Commissioner of Education, revoked Mr. Harris' teacher certification; the Teacher's Union appealed the action. The appeal was heard by the Florida Education Commission, which affirmed the revocation of Mr. Harris' license.

Based upon the facts of the case and the evidence presented, I determined the Education Commission's Final Order should be appealed. The case proceeded to the Court of Appeal of Florida, Third District. My work before the Court of Appeal included briefing the case and presenting oral argument. The Court of Appeal of Florida, Third District affirmed the decision of the Education Commission.

Opposing Counsels:

J. David Holder
300 Fox Meadow Ln

Thomasville, GA 31757
850-508-4964

Craig R. Wilson
2040 NW Marsh Rabbit Ln
Jensen Beach, FL 34957-3525
561-531-3702

2. Charley D. Price v. Department of Banking and Finance, Case No. VP-92-019, Florida Public Employees Relations Commission (November 20, 1992) (before Hearing Officer Carlos R. Lopez)

I defended the Florida Comptroller's Office against Mr. Price, a self-represented complainant. Mr. Price had, on numerous occasions, brought actions against the Comptroller's Office alleging the veteran's preference points awarded to his employment applications were calculated improperly. On this occasion, Mr. Price applied for employment with the Comptroller's Office and was not the winning candidate. He brought forth an employment action claiming the Comptroller's Office failed to calculate the correct number of veteran's preference points he qualified for. After much research, I discovered law that deemed Mr. Price's veteran's preference to have expired. Upon filing a pleading detailing the applicable law and presenting the argument that Mr. Price's opportunity to claim a veteran's preference had ended, judgment was entered in favor of the Comptroller's Office. In addition, in its Order the court precluded Mr. Price from filing any future claims for veteran's preference.

Petitioner's Counsel:
Charley D. Price, Pro Se

Supervising Counsel:
Rick Bisbee
1882 Capital Cir NE, Suite 206
Tallahassee, FL 32308
850-386-5300

3. Miami-Dade County School Board v. Gregory Adams, Case No. 01-1131, State of Florida, Division of Administrative Hearings (October 26, 2001) (before Administrative Law Judge Florence Snyder Rivas)

I defended Mr. Adams, an educator who was facing termination of his employment for allegedly implementing inappropriate disciplinary tactics on a student. When the allegation of inappropriate discipline was levied against Mr. Adams, Mr. Adams immediately sought the advice and counsel of the Teacher's Union by first reporting the incident to the union representative at his school. I was General Counsel for the Teacher's Union and as such relied upon the information obtained by union representatives to prepare for litigation.

As part of Mr. Adams' defense, I sought to protect from discovery, the information Mr. Adams discussed with his union representative. I presented a motion to the courts arguing that information collected by union representatives under such circumstances should be protected by the attorney-client privilege. My motion was granted and for the first time, information gathered by union representatives in anticipation of litigation received attorney-client privilege protections. The termination action thereafter proceeded to a formal hearing. Mr. Adams was exonerated of all charges and his employment with the Miami-Dade school district was preserved.

Opposing Counsel:

Madelyn P. Schere
9095 SW 78th Ct.
Miami, FL 33156
305-271-2979

4. Charlie Crist v. Brian Glasford, Case No. 02-2527PL, State of Florida Division of Administrative Hearings (December 20, 2002) (before Administrative Law Judge Robert E. Meale)

I represented Mr. Glasford in a license revocation action in which he was accused of engaging in inappropriate sexual conduct with a sixteen-year-old female student. The Florida Department of Education sought to revoke Mr. Glasford's teaching license. Through discovery it was learned that the student previously inquired about the marital status of Mr. Glasford with another teacher, and suggested that she had a sexual interest in him. That teacher advised the student that Mr. Glasford was happily married and attempted to redirect the student's interest. This evidence was presented at the hearing in this matter along with the credible testimony of Mr. Glasford. The court determined the student fabricated the allegations levied against Mr. Glasford and he was exonerated of all charges.

Opposing Counsel:

Charles T. Whitelock
300 SE 13th St.
Fort Lauderdale, FL 33316
954-232-1800

5. International Equities Group, Inc. and Stephen Schwartz v. Department of Banking and Finance, Case No. 93-2591, State of Florida Division of Administrative Hearings (December 7, 1993) (before Hearing Officer Michael Ruff)

I represented the State of Florida Department of Banking and Finance in this case. Barnett Bank of Palm Beach County, Florida held a savings account for Arthur G. Cullen in the amount of \$16,515.62. Since the account remained inactive for seven years, the account was treated as abandoned and the funds were turned over to the Florida Department of Banking and Finance. Mr. Schwartz filed a claim for the funds on behalf of Ms. Shirley Andrews whose social security number matched the social security

number on the bank account, and who bore “illegitimate” children with the named account holder. In preparing for the hearing on this matter, I worked with agency inspectors and directed their investigations to determine the validity of Ms. Andrew’s claim. I conducted interviews of agency employees that were ancillary to the case, and those who made the decision to deny Ms. Andrew’s claim. I used the information obtained during the investigation and discovery to prepare a plan for direct and cross examination of witnesses at the hearing. Upon successfully defending the Comptroller’s position, the claim was denied without prejudice.

Opposing Counsel:

Stephen Schwartz, Pro Se

Supervisor:

Rick Bisbee
1882 Capital Cir NE, Suite 206
Tallahassee, FL 32308
850-386-5300

- 18. Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).**

While working for the Florida Commission on Human Relations, I was responsible for drafting the Department’s procedural regulations regarding the newly enacted Americans with Disabilities Act. This work included consulting with various Florida government officials and state agencies to determine the logistical capabilities and logistical constraints in enacting the proposed regulations. I also determined the timeline for training Commission members and employees to ensure timely implementation of the regulations.

- 19. Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide four (4) copies of all opinions you wrote during such service as a judge.**

In May 2006, I was appointed by the Administrative Hearings Division to serve as an Administrative Law Judge and Appellate Administrative Law Judge with the D.C. Department of Employment Services, Administrative Hearings Division. I adjudicated workers’ compensation cases, copies of which are supplied. In June 2014, I was appointed by the D.C. Commission on Selection and Tenure to serve as an Administrative Law Judge with the D.C. Office of Administrative Hearings. I have adjudicated contested cases concerning the Rental Housing Commission, Department of Employment Services, Department of Health, D.C. Public Schools, D.C. For Hire Vehicles, Department of Public Works, Department of Energy and the Environment,

Department of Consumer and Regulatory Affairs, Office of Tax and Revenue, Department of Transportation, Metropolitan Police Department and the Office of Planning. Copies of my published opinions are supplied.

A. List all court decisions you have made which were reversed or otherwise criticized on appeal.

See attached appendix.

20. Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).

Yes; in 1995, I was a candidate for Executive Committeewoman for District 17, Miami-Dade County. I was elected to the position and served as an Executive Committeewoman for District 17, Miami-Dade County from 1996 to 1998.

21. Political activities and affiliations.

- **List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.**

From 1996 to 1998 I was elected to serve as an Executive Committeewoman for District 17, Miami-Dade County.

- **List all memberships and offices held in and services rendered to any political party or election committee during the last ten (10) years.**

None.

- **Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last five (5) years of \$50 or more.**

None.

22. To your knowledge, have you ever been investigated, arrested, charged, or convicted (include pleas of guilty or nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, other than for a minor traffic offense? If so, please provide details.

No.

23. Have you or any business of which you are or were an officer, director or owner ever been a party or otherwise involved as a party in any other legal or administrative proceedings? If so, give the particulars. Do not list any proceedings

in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a co-conspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.

No.

- 24. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.**

No.

II. POTENTIAL CONFLICTS OF INTEREST

1. **Will you sever all connections with your present employer(s), business firm(s), business association(s), or business organization(s) if you are confirmed?**

Yes.
2. **Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.**

None.
3. **Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.**

None.
4. **Describe any business relationship, dealing, or financial transaction which you have had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest other than while in a federal government capacity.**

None.
5. **Describe any activity during the last ten (10) years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy other than while as a federal government employee.**

None.
6. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.**

No.
7. **Explain how you will resolve any potential conflicts of interest, including any that may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.**

If a conflict arises, I will turn to the District of Columbia Code of Judicial Conduct and any other applicable sources to resolve the conflict of interest.
8. **If confirmed, do you expect to serve out your full term?**

Yes.

III. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section 11-1501(b), as amended.

1. Are you a citizen of the United States?

Yes.

2. Are you a member of the bar of the District of Columbia?

Yes.

3. Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.

Yes; I was admitted to practice in the District of Columbia on April 1, 2013.

4. If the answer to Question 3 is "no" --

A. Are you a professor of law in a law school in the District of Columbia?

B. Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?

C. Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?

D. Upon what grounds is that eligibility based?

5. Are you a bona fide resident of the District of Columbia?

Yes.

6. Have you maintained an actual place of abode in the greater Washington, D.C. area for at least five (5) years? Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.

Since 2004, I have resided at [REDACTED] REDACTED

7. Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?

No.

8. **Have you been a member of either of these Commissions within the last 12 months?**

No.

9. **Please provide the committee with four (4) copies of your District of Columbia Judicial Nomination commission questionnaire.**

A copy of my District of Columbia Judicial Nomination commission questionnaire is attached.

AFFIDAVIT

Leslie Meek being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

SUBSCRIBED and SWORN TO before me this 2nd day of May 2022.

MJB
Notary Public



Senator James Lankford

Post-Hearing Questions for the Record

Submitted to Leslie A. Meek

Nominations of Colleen J. Shogan to be Archivist of the United States, National Archives and Records Administration; Vijay Shanker to be an Associate Judge, District of Columbia Court of Appeals; and Laura E. Crane, Leslie A. Meek, and Veronica M. Sanchez to be Associate Judges, Superior Court of the District of Columbia

September 21, 2022

On Judicial Philosophy:

- How would you describe your judicial philosophy?

Response: I have served the District of Columbia as an Administrative Law Judge for the past 16 years and it is my aim to ensure that due process is provided to those that appear before me. To effectuate this objective, I consistently treat the parties with respect and fairness, and I require the parties to treat each other with respect and fairness. I manage the courtroom and hearing procedures in an efficient and effective manner, and I strive to issue my determinations expeditiously.

I believe it is important to take the time to consider the facts of a case and apply the applicable laws and precedent to those facts to make my decisions.

I understand that our society elects officials to enact laws that suit the interests and needs of the constituency, and I understand as a judge adjudicating cases, my personal beliefs and ego must not take any place in the adjudicatory process. My judicial duty is to apply the law to the facts presented to me.

- If you are presented with a case, and the law clearly indicates that you should reach a particular result, but you conclude that result would be profoundly unjust. What do you do?

Response: I am committed to relying upon and applying the law created by the legislators and the precedent created by jurists. I have always faithfully applied the law to the facts of the case irrespective of my personal beliefs, so in such a circumstance as presented here, I would apply the law, as my personal beliefs have no place in the adjudicatory process.

- Should judges take changing social values into consideration when interpreting the law?

Response: No. It is not the judge's role to consider changing social values when adjudicating a case. Legislators may change the law to accommodate the changing social

values of the community as they deem necessary. The judge's role is to apply the plain meaning of the law to the facts presented before her.

- What role should extrinsic factors not included within the text of a statute, especially legislative and general principles of justice, play in statutory interpretation?

Response: Proper statutory interpretation requires judges to apply the plain meaning of the law. In my 16 years serving the District as an Administrative Law Judge, I rarely considered extrinsic factors when interpreting the law. I regularly considered the facts of the case and, the law and precedent that were to be applied to the case.

- What Judge or Justice do you most admire? Why?

Response: I admire judges who respect the judicial role they are charged with administering. I admire judges who respect the adjudicatory process by preparing carefully for each case. I admire judges who show respect for the parties that appear before them irrespective of their position in society or their legal position in the courtroom.

- If defendants of a particular minority group receive on average longer sentences for a particular crime than do defendants of other racial or ethnic groups, should that disparity factor into the sentencing of an individual defendant? If so, how so?

Response: A defendant's racial or ethnic disparity must not be factored into the sentencing determination by a judge. A judge's role is to consider the facts of the case and apply the law to the facts. Personal opinions and/or beliefs must not be considered in a judge's adjudicatory process.

On Criminal Law:

- What do you see are the largest or most significant criminal issues currently in D.C.? And as a judge, what can you do to be able to help in that area?

Response: A significant criminal issue in the District of Columbia is the rise in crime. If confirmed as a Superior Court Associate Judge, I will work to ensure that I am prepared to adjudicate the cases that come before me; I will work to ensure that I facilitate my cases efficiently and that my decisions are issued in a timely manner; and I will work with the Chief Judge to effectuate her priorities.

- What do you consider one of the most critical areas that you can serve D.C. while you're on the bench?

Response: Should I be confirmed, I believe I can best serve D.C. by studying and quickly learning the judicial requirements of the Superior Court, as doing so will ensure that I am prepared for court each day and will enable me to issue my determinations in a timely manner.

On Religious freedom:

- Religious Freedom Restoration Act (RFRA) states that “[g]overnment shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability” unless the government “demonstrates that application of the burden to the person— (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.”
 - To pass the least-restrictive-means test, the government must show “that it lacks other means of achieving its desired goal without imposing a substantial burden on the exercise of religion” by the religious objector.
 - Would you agree that by denying churches the ability to hold an in-person church service, the city of Washington, D.C. violated RFRA?

Response: The U.S. District Court in *Capitol Hill Baptist Church v. Bowser*, 496 F. Supp 3d 284 (2020), determined that the District’s COVID related prohibition of religious gatherings of more than 100 people, even those with appropriate precautions, substantially burdened the plaintiff’s exercise of religion in violation of the RFRA. This is set precedent and should I be confirmed as a D.C. Superior Court Judge, I will apply this precedent accordingly.

- The mayor has a vaccine mandate in place for all city employees (including a required booster whenever eligible to receive one). If a case came before you where an employee was required to be vaccinated under the mayor’s order but doing so would violate their sincerely held religious belief and that employee requested and was denied a reasonable accommodation, how would you approach such a case? What steps would you take in determining whether the employee should be granted an accommodation from the mandate?

Response: The United States Supreme Court has ruled that the First amendment protects the exercise of sincerely held religious beliefs. *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Comm’n*, 584 U.S. ____ (2018). This is a well-established precedent concerning this issue and it is clear that upon reviewing sincerely held religious beliefs, a judge must accept the belief absent evidence that contradicts the sincerity of the belief. A judge must apply the existing precedent to the facts presented, and should I be confirmed, I will do so.

**Post-Hearing Questions for the Record
Submitted to Leslie A. Meek
From Senator Josh Hawley**

**“Nomination Hearing”
September 22, 2022**

1. Justice Marshall famously described his judicial philosophy as “You do what you think is right and let the law catch up.”

- Do you agree with that philosophy?

Response: No.

- If not, do you think it is a violation of the judicial oath to hold that philosophy?

Response: Canon 1 of the Code of Judicial Conduct of the District of Columbia Courts (Code) requires a judge to, “. . . uphold and promote the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.” In its preamble, the Code states, “An independent, fair and impartial judiciary is indispensable to our system of justice. The United States legal system is based upon the principle that an independent, impartial and competent judiciary . . . will interpret and apply the law that governs our society.”

The duty of a judge is to faithfully follow the plain meaning of the law; follow precedent and, apply the law to the facts presented to her. This is what is required of judges in the District of Columbia, and I will perform my duties in accordance with these requirements.

2. Have you ever worked on a legal case or representation in which you opposed a party’s religious liberty claim? If so, please describe the nature of the representation and the extent of your involvement. Please also include citations or references to the cases, as appropriate.

Response: No.

3. What role should the original public meaning of the Constitution’s text play in the courts’ interpretation of its provisions?

Response: I am committed to relying upon and applying the law created by our legislators and interpreted by the Supreme Court. The Constitution is an enduring document intended to apply to circumstances that did not exist at the time of its creation. The Supreme Court has interpreted the Constitution and provided solid precedent concerning its application and I will faithfully follow the precedent that has been set.

4. Has the Supreme Court or any District of Columbia court ever recognized a constitutional right to DNA analysis for habeas corpus petitioners in order to prove their innocence of their convicted crime?

Response: In *District Attorney's Office for the Third Judicial District v. Osborne*, 557 U.S. 52 (2009), the Supreme Court held that Mr. Osborne had no constitutional right to obtain post-conviction access to the state's DNA evidence that was used against him at trial. The court deferred to the legislative branch in establishing rules by which convicts can obtain DNA evidence.

D.C. Code 22-4133 provides, "A person in custody pursuant to the judgment of the Superior Court of the District of Columbia for a crime of violence may, at any time after conviction or adjudication as a delinquent, apply to the court for DNA testing of biological material that: (1) Was seized or recovered as evidence in the investigation or prosecution that resulted in the conviction or adjudication as a delinquent or can otherwise be identified as evidence in the case . . ."

5. Under Supreme Court and District of Columbia precedents, what is the legal standard used to evaluate a claim that a facially neutral state governmental action is a substantial burden on the free exercise of religion? Please cite any cases you believe would be binding precedent.

Response: In 1993 Congress enacted the Religious Freedom Restoration Act (RFRA), 42 U.S.C. § 2000bb-2(2), to protect those whose religious exercise is substantially burdened by the government. RFRA allows individuals to seek judicial relief from even neutral laws. RFRA mandates that a neutral law that substantially burdens religion will be subject to strict scrutiny and must satisfy a compelling government interest and be narrowly tailored to that effect.

Binding precedent includes, *Burwell v. Hobby Lobby Stores Inc.*, 573 U.S. 682 (2014).

6. Under Supreme Court and District of Columbia precedents, what is the legal standard used to evaluate a claim that a state governmental action discriminates against a religious group or religious belief? Please cite any cases you believe would be binding precedent.

Response: Congress enacted the Religious Freedom Restoration Act (RFRA), 42 U.S.C. § 2000bb-2(2), in 1993 to protect those whose religious exercise is substantially burdened by the government. RFRA allows individuals to seek judicial relief from even neutral laws. RFRA mandates that a neutral law that substantially burdens religion will be subject to strict scrutiny and must satisfy a compelling government interest and be narrowly tailored to that effect.

Binding precedents include, *Capitol Hill Baptist Church v. Bowser*, 496 F. Supp 3d. 284 (2020), *Roman Catholic Diocese v. Cuomo*, 141 S. Ct. 63 (2020), *Tandon v. Newson*, 141 S. Ct. 1294 (2021).

7. What is the standard in the District of Columbia for evaluating whether a person's religious belief is held sincerely?

Response: In *Burwell v. Hobby Lobby Stores Inc.*, 573 U.S. 682 (2014), the Supreme Court determined, it is not the role of a court to tell religious believers whether their belief is unreasonable or mistaken. Rather, the courts' narrow role is to determine whether the religious belief is an honest conviction.

8. What is your understanding of the Supreme Court's holding in *District of Columbia v. Heller*, 554 U.S. 570 (2008)?

Response: In *Heller*, the Supreme Court determined that the Second Amendment protects citizens' right to keep and bear arms for the purpose of self-defense.

9. Have you ever taken the position in litigation or a publication that a federal or state statute was unconstitutional? If yes, please provide appropriate citations or supply copies of relevant filings.

Response: No.

10. Since you were first contacted about being under consideration for this nomination, have you deleted or attempted to delete any content from your social media? If so, please produce copies of the originals.

Response: No.

11. Do you believe America is a systemically racist country?

Response: No.

12. Please describe your understanding of the duty of candor, if any, that nominees have to state their views on their judicial philosophy and be forthcoming when testifying before the Senate Judiciary Committee. See U.S. Const. art. II, § 2, cl. 2.

Response: The preamble of the Code of Judicial Conduct for the District of Columbia Courts (Code) makes it clear that said Code applies to judicial candidates. The "Terminology" section of the Canons defines "impropriety" to include, "... conduct that undermines a judge's independence, integrity, or impartiality."

Failing to be open and honest regarding one's view concerning judicial philosophy is an act that lacks integrity, it is a violation of the Canons, and is an affront to the judiciary.

Opening Statement of Veronica M. Sanchez
Nominee to be Associate Judge of the Superior Court of the District of Columbia

Chairman Peters, Ranking Member Portman, and members of the Committee, it is an honor and a privilege to appear before you today as a nominee to be an Associate Judge of the Superior Court of the District of Columbia. I extend my thanks to each of you and your dedicated Committee staff for all the hard work that has gone into considering my nomination. I would also like to thank the District of Columbia Judicial Nomination Commission and its chair, the Honorable Emmet Sullivan, for recommending me to the White House, and I am thankful to President Joseph Biden for nominating me to this position. I must also thank the current U.S. Attorney for the District of Columbia Mathew Graves, and former U.S. Attorneys Channing Phillips, Jessie Liu, Ronald Machen, and Vincent Cohen for their support and guidance throughout my career as a prosecutor. I also thank my current and former colleagues from the United States Attorney's Office; it is an honor to work with all of you.

I reserve special thanks for the people in my life who are here because they love and support me in my home, my work and my community. My husband is here today. He is my best friend, my partner in life, and my biggest advocate. Thank you for your encouragement and support of all my personal and professional endeavors. I want to take a moment to thank my two children for their patience and support during the times where they have had to share their time with me due to the demands of my job. I love you both.

My father is here today while my mother and brother watch and support me from South Florida and Texas. I was born in Nicaragua and was fortunate to come to the United States a few months before my eighth birthday. My parents came to this country seeking a better future for their children. I would not be here today without the many sacrifices made by my parents who taught me through their words and actions the values of hard work, integrity, fairness, and service. I also want to thank the rest of my family and friends from all over the country for their support and prayers throughout this process.

I have dedicated my career to public service, hoping to give back to the country that has afforded me and so many others the opportunity to turn dreams into reality. I began my legal career by clerking for the Honorable Edward C. Reed for the United States District Court for the District of Nevada. I also had the honor of clerking for the Honorable Melvin Brunetti for the U.S. Court of Appeals for the Ninth Circuit. I moved to the District of Columbia in 2002 after joining the Department of Justice's Honors Program with the Antitrust Division. I spent six years as a trial attorney in the Antitrust Division handling civil antitrust matters prior to joining the U.S. Attorney's Office for the District of Columbia. Since 2009, I have served as an Assistant United States Attorney at the U.S. Attorney's Office for the District of Columbia where I have handled a wide range of criminal cases on behalf of the United States. I have handled over twenty trials in the Superior Court and have investigated and prosecuted misdemeanor, felonies, homicides and fraud matters. Throughout my legal career I have sought to uphold the law and the values of fairness and justice. If I am confirmed, it will be both an honor and a privilege to continue to serve the residents of the District of Columbia as an Associate Judge on the Superior Court.

Thank you again for the opportunity to appear before you today. I look forward to answering your questions.

REDACTED

**QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS,
UNITED STATES SENATE**

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

- 1. Full name (include any former names used).**

Veronica M. Sanchez

- 2. Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).**

I am a naturalized U.S. Citizen. A copy of my naturalization certificate is attached.

- 3. Current office address and telephone number.**

United States Attorneys' Office for the District of Columbia
601 D Street NW, Suite 3.200
Washington, DC 20001
(202) 252-7518

- 4. Date and place of birth.**

January 26, 1974; Managua, Nicaragua.

- 5. Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).**

I am married to Christopher Jurgens. He is a Senior Director at Omidyar Network, 1200 17th Street NW, Washington, DC 20036.

- 6. Names and ages of children. List occupation and employer's name if appropriate.**

REDACTED

REDACTED

- 7. Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and date each degree was received. Please list dating back from most recent to earliest.**

UCLA Law School, 1996 – 1999, J.D. awarded May 1999.

Duke University, 1992 – 1996, B.A. awarded May 1996.

Hialeah Miami Lakes High School, 1989 – 1992, diploma awarded June 1992.

8. **Employment record. List all jobs held since college, other than legal experience covered in question 16, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest. If you have served in the US military, please list dates of service, rank or rate, serial number, and type of discharge received.**

June 1998 – August 1998
Hancock, Rothert & Bunshoft
515 S. Figueroa Street, 17th Floor
Los Angeles, CA 90071
Summer Clerk

February 1998 – May 1999
UCLA Law School Law Library
1106 Law Building
Los Angeles, CA 90095
Research Assistant

June 1997 – August 1997
U.S. District Court for the Central District of California
Judge Andrew Hauk
32 North Spring Street
Los Angeles, CA 90012
Summer Extern

June 1996 – August 1996
Professor Richard Sander
UCLA Law School
3237 Law Building
Los Angeles, CA 90095
Research Assistant

June 1996 – August 1996
JC Penney Inc.
1655 West 49th Street
Hialeah, FL 33012
Sales Associate

9. **Honors and awards. List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.**

U.S. Attorney's Office, Special Achievement Award (2012, 2013, 2014, 2015, 2016)

UCLA Law Review, Chief Managing Editor (1998 – 1999)

Roscoe Pound Advocate (1998)

UCLA, Moot Court Honors Program, Distinguished Advocate (1997 – 1998)

CAP Grant Scholar (1992 – 1996)

10. **Business relationships. List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.**

None.

11. **Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.**

Hispanic Bar Association of the District of Columbia
Member (2021 – Present)

District of Columbia Bar
Member (2020 – Present)

National Association of Assistant United States Attorneys
Member (2017 – Present)

Assistant United States Attorneys Association for the District of Columbia
Member (2017 – 2020)

William B. Bryant American Inn of Court
Member (2016 – 2018)

National Hispanic Bar Association
Member (2015 – Present)

The Florida Bar
Member (2002 – Present)

The State Bar of California
Member (2002 – Present)

12. **Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other**

organizations, other than those listed in response to Question 11. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.

Martha's Table Ministry
Member (2021 – Present)

Central American Resource Center (CARECEN)
Mentor, Citizenship and Civic Program (2021 – Present)

John Eaton Elementary School, Home and School Association
Member (2019 – Present)

Delta Gamma Sorority
Member (1993 – 1996)

Delta Gamma Sorority limits membership to women. Otherwise, none of the above listed organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.

- 13. Court admissions. List all courts in which you have been admitted to practice, with dates of admission and lapses in admission if any such memberships have lapsed. Please explain the reason for any lapse in membership. Please provide the same information for any administrative bodies which require special admission to practice.**

U.S. District Court for the District of Columbia, admitted August 21, 2019

District of Columbia, admitted November 23, 2020

State of Florida, admitted May 16, 2002

State of California, admitted September 29, 2000

There have been no lapses in membership.

- 14. Published writings. List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited.**

Mitu Gulati and Veronica Sanchez, *Giants in a World of Pygmies? Testing the Superstar Hypothesis with Judicial Opinions in Casebooks*, 87 Iowa L. Rev. 1141 (2002).

Veronica M. Sanchez, *Taking a Byte Out of Minimum Contacts: A Reasonable Exercise of Personal Jurisdiction in Cyberspace Trademark Disputes*, 46 UCLA L. REV. 1671 (1999).

- 15. Speeches. List the titles of any formal speeches you have delivered during the last**

five (5) years and the date and place where they were delivered. Please provide the Committee with four (4) copies of any of these speeches.

None.

16. **Legal career.**

A. Describe chronologically your law practice and experience after graduation from law school, including:

(1) Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;

From August 1999 to August 2001, I served as a law clerk to Judge Edward C. Reed of the U.S. District Court for the District of Nevada. In addition, from August 2001 to August 2002, I served as a law clerk to Judge Melvin T. Brunetti of the U.S. Court of Appeals for the Ninth Circuit.

(2) Whether you practiced alone, and if so, the addresses and dates;

I have never practiced alone.

(3) The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.

Summer 1999
Alschuler, Grossman, Stein & Kahan
2049 Century Park East, 39th Floor
Los Angeles, CA 90067
Law Clerk

October 2002 – July 2009
Antitrust Division, Department of Justice
Telecommunications and Media Enforcement Section
450 5th Street NW
Washington, DC 20530
Trial Attorney

October 2009 – Present
U.S. Attorney's Office for the District of Columbia
601 D. Street NW, Suite 3.200
Washington, DC 20001
Assistant United States Attorney

B. Describe the general character of your law practice, dividing it into periods with dates if its character has changed over the years.

As a law clerk for Judge Edward C. Reed (1999 – 2001), I assisted the Judge with district court hearings and wrote opinions in both civil and criminal cases. As a law clerk to Judge Melvin T. Brunetti (2001— 2002), I prepared bench memoranda and wrote draft opinions in civil and criminal cases before the U.S. Court of Appeals for the Ninth Circuit.

As a trial attorney in the Antitrust Division (2002 – 2009), I handled civil antitrust matters primarily in the telecommunications and media sector.

As an Assistant U.S. Attorney in the U.S. Attorney's Office for the District of Columbia (2009 – Present), I have handled criminal cases primarily in Superior Court. My responsibilities include all aspects of criminal prosecution. Since 2001, I have served as the Chief of the Major Crimes Section which investigates and prosecutes felony violent crime cases in the District of Columbia. As the Chief of the section, I oversee four deputy chiefs, as well as a staff of approximately twenty-six attorneys and eight paralegals.

C. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

I have served as a government attorney working in the following areas of practice: Antitrust and Criminal law.

D. Describe the general nature of your litigation experience, including:

(1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.

The frequency of my appearances in court have varied over the last years. As the Chief of the Major Crimes Section since January 2021, I supervise approximately 24 Assistant United States Attorneys who appear regularly in Superior Court on felony matters. From August 2019 to January 2021, I appeared in court frequently as an Assistant U.S. Attorney in federal court, specifically in the U.S. District Court for the District of Columbia. During September 2016 to February 2019, I was a supervisor (I served as a Deputy Chief in the Felony Major Crimes Section) so I occasionally appeared in D.C. Superior Court. From March 2010 to September 2016, I appeared in D.C. Superior Court frequently handling criminal matters at the U.S. Attorney's Office.

(2) What percentage of these appearances was in:

(a) Federal courts (including Federal courts in D.C.);

20%

- (b) State courts of record (excluding D.C. courts);

0 %

- (c) D.C. courts (Superior Court and D.C. Court of Appeals only);

80%

- (d) other courts and administrative bodies.

0 %

- (3) What percentage of your litigation has been:

- (a) civil;

30 %

- (b) criminal.

70 %

- (4) What is the total number of cases in courts of record you tried to verdict or judgment (rather than settled or resolved, but may include cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.

I have tried approximately 30 cases. I was sole counsel in approximately 20 and co-counsel in the remaining ten.

- (5) What percentage of these trials was to

- (a) a jury;

70%

- (b) the court (include cases decided on motion but tabulate them separately).

30%

17. Describe the five (5) most significant litigated matters which you personally

handled. Provide citations, if the cases were reported, or the docket number and date if unreported. Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case. Identify the party/parties you represented and describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case, (a) the date of representation; (b) the court and the name of the judge or judges before whom the case was litigated; and (c) the name(s) and address(es) and, telephone number(s) of co-counsel and of the principal counsel for the other parties.

1. *United States v. Jeffrey Neal*, No. 2014 CF1 10507 (D.C. Super. Ct. Oct. 30, 2017), 242 A.3d 158 (D.C. Nov. 10, 2020) (before the Honorable Robert Morin)

From June 2014 to December 2017, I represented the United States in this homicide case along with AUSA Shana Fulton. The defendant murdered two childhood friends and hid their bodies in his house. I handled all aspects of the investigation, including the indictment and the jury trial. I delivered the opening statement and presented half of the civilian witnesses, the crime scene officers, custodian of records witnesses, an FBI forensic examiner in footwear impression, and an expert in psychiatry. At trial, I also presented an entomologist who had analyzed one of the decedents bodies to determine when he had been murdered. The jury returned a verdict of guilty on all counts to include First-Degree Murder While Armed.

Co-counsel:

Shana Fulton
Brooks Pierce
150 Fayetteville Street, Suite 1700
Raleigh, NC 27601
(919) 882-2522

Defense counsel:

Kevin McCants
601 Pennsylvania Avenue NW #900
Washington, DC 20004
(202) 459-4676

Michael Madden
717 D St. NW
Washington, DC 20004
(202) 628-3820

2. *United States v. Andre Miles*, No. 2010 CF2 16792 (D.C. Super. Ct. Oct. 12, 2011)
(before the Honorable Heidi Pasichow)

From November 2010 to October 2011, I represented the United States in this case involving a charge of Carrying a Pistol Without a License. I handled all aspects of the investigation and the trial. I prepared and presented all of the witnesses, delivered the opening statement and

closing argument and rebuttal, and cross-examined a defense fingerprint expert. The jury found the defendant not guilty after not being able to reach a verdict in the first trial.

Opposing Counsel:

Natalie Epps (formerly Lawson)
Public Defender Service
633 Indiana Ave NW
Washington, DC 20004
(202) 628-1200

3. *United States v. Jonathan Dawkins*, No. 2012 CF1 12634 (D.C. Super. Ct. Aug. 8, 2014), 189 A.3d 223 (D.C. 2018) (before the Honorable Russell Canan)

From March 2014 to December 2014, I represented the United States in this homicide case along with AUSA Holly Shick. I joined this case after it had been indicted, but worked to prepare the case for trial, including presenting half of the civilian witnesses, responding officers, the medical examiner, and delivering the closing argument in this self-defense case. The jury found the defendant guilty of Voluntary Manslaughter While Armed.

Co-counsel:

Holly Shick
Chief Ethics and Compliance Officer
United States Olympic & Paralympic Committee
27 S Tejon St.
Colorado Springs, CO 80903
(719) 632-5551

Opposing Counsel:

Magistrate Judge Pipe
Superior Court for the District of Columbia
500 Indiana Avenue NW, Suite 4450
Washington, DC 20001
(202) 879-4795

Dominique Winters
Public Defender Service
633 Indiana Ave NW
Washington, DC 20004
(202) 628-1200

4. *United States v. Allen Culver*, No. 2013CF1 010121 (D.C. Super. Ct. Aug. 13, 2020) (before the Honorable Michael Ryan)

From June 2015 to October 2015, I represented the United States along with AUSA Michelle Parikh in this homicide case. I joined this case after it had been indicted, but worked to prepare the case for trial, including preparing two juvenile witnesses as well as the responding officers.

I also presented the opening statement in the case as well as handling the medical examiner testimony. The jury found the defendant guilty of Second-Degree Murder While Armed.

Co-counsel:

Michelle Parikh
Trial Attorney
Public Integrity Section
Department of Justice
1301 New York Avenue, 10th Floor
Washington, DC 20005
(202) 514-1412

Opposing Counsel:

Jonathan Zucker
37 Florida Ave NE #200
Washington, DC 20002
(202) 624-0784

5. *United States v. Demonta Chappell*, No. 2013 CF1002097 (D.C. Super. Ct. Aug. 28, 2015), 20-CO-232 and 20-CO-233 (D.C. Dec. 13, 2021) (before the Honorable Jennifer Anderson (motions) and the Honorable Rhonda Reid-Winston (trial))

From April 2014 to April 2015, I represented the United States in this homicide case along with AUSA Jonathan Kravis. In addition to the homicide charges the defendant was also charged with obstruction of justice. I joined the case after it was indicted, but worked to prepare the case for trial, including preparing and presenting half of the civilian witnesses, including the main civilian witness, presenting the firearms examiner, and delivering the closing argument. I also filed numerous oppositions and responded to legal issues throughout the trial. The jury found the defendant guilty of First-Degree Murder While Armed and Obstruction of Justice.

Co-Counsel:

Jonathan Kravis
Munger, Tolles & Olson
601 Massachusetts Ave NW
Washington, DC 20001
(202) 220-1130

Opposing Counsel:

Emily Stirba
Chris Roberts
Public Defender Service
633 Indiana Avenue NW
Washington, DC 20004
(202) 628-1200

18. **Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).**

I was one of the attorneys that worked on a multi-agency federal investigation that spanned several years into bribes paid to Metropolitan Police Department (MPD) employees in exchange for personal identifying information of traffic crash victims. MPD employees received kickbacks for providing information to civilians who would solicit the individuals involved in the traffic crashes to become clients of certain law firms following the event. These civilians would then receive a referral fee for bringing in the crash victims as a law firm client.

In coordination with the Metropolitan Police Department's Office of Internal Affairs Division and the Federal Bureau of Investigation, we conducted a comprehensive investigation that resulted in several civilian and MPD employees being charged with bribery in U.S. District Court. Those individuals pled guilty and have been sentenced.

19. **Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide four (4) copies of all opinions you wrote during such service as a judge.**

I have never held judicial office.

- A. **List all court decisions you have made which were reversed or otherwise criticized on appeal.**

None.

20. **Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).**

I have never been a candidate for elective, judicial, or other public office.

21. **Political activities and affiliations.**

- **List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.**

None.

- **List all memberships and offices held in and services rendered to any political party**

or election committee during the last ten (10) years.

None.

- **Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last five (5) years of \$50 or more.**

I have not made any political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last five years.

22. **To your knowledge, have you ever been investigated, arrested, charged, or convicted (include pleas of guilty or nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, other than for a minor traffic offense? If so, please provide details.**

No.

23. **Have you or any business of which you are or were an officer, director or owner ever been a party or otherwise involved as a party in any other legal or administrative proceedings? If so, give the particulars. Do not list any proceedings in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a co-conspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.**

No.

24. **Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.**

No.

II. POTENTIAL CONFLICTS OF INTEREST

1. **Will you sever all connections with your present employer(s), business firm(s), business association(s), or business organization(s) if you are confirmed?**

Yes.

2. **Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.**

None.

3. **Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.**

None.

4. **Describe any business relationship, dealing, or financial transaction which you have had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest other than while in a federal government capacity.**

None.

5. **Describe any activity during the last ten (10) years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy other than while as a federal government employee.**

None.

6. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.**

No.

7. **Explain how you will resolve any potential conflicts of interest, including any that may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.**

I will abide by the ethical canons included in the Code of Judicial Conduct. If any potential conflicts of interest should arise, I will apply the ethical cannons and recusal standards and, if necessary, I will confer with judicial ethics officials to determine, as appropriate, whether I should recuse myself from the matter at issue.

8. If confirmed, do you expect to serve out your full term?
- Yes.

III. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section 11-1501(b), as amended.

1. Are you a citizen of the United States?

Yes.

2. Are you a member of the bar of the District of Columbia?

Yes.

3. Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.

No.

4. If the answer to Question 3 is "no" --

A. Are you a professor of law in a law school in the District of Columbia? No.

B. Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia? Yes.

C. Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years? Yes.

D. Upon what grounds is that eligibility based?

Admission in any state or territory of the United States for five years immediately preceding the application for admission. Admission in the State of Florida.

5. Are you a bona fide resident of the District of Columbia?

Yes.

6. Have you maintained an actual place of abode in the greater Washington, D.C. area for at least five (5) years? Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.

Yes. Since 2012, I have resided at [REDACTED] REDACTED

7. Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?

No.

- 8. Have you been a member of either of these Commissions within the last 12 months?**

No.

- 9. Please provide the committee with four (4) copies of your District of Columbia Judicial Nomination commission questionnaire.**

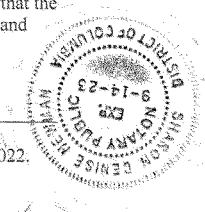
Copies of my District of Columbia Judicial Nomination commission questionnaire are attached.

AFFIDAVIT

Veronica M. Sanchez being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

SUBSCRIBED and SWORN TO before me this 4th day of August 2022.

Sharon Denise Newman
Notary Public



District of Columbia: SS:

Subscribed and sworn to before me, in my presence, on this 4th day of August, 2022.

Sharon Denise Newman
Sharon Denise Newman, Notary Public, D.C.
My commission expires September 14, 2023.

Senator James Lankford
Post-Hearing Questions for the
Record Submitted to Veronica M.
Sanchez

Nominations of Colleen J. Shogan to be Archivist of the United States, National Archives and Records Administration; Vijay Shanker to be an Associate Judge, District of Columbia Court of Appeals; and Laura E. Crane, Leslie A. Meek, and Veronica M. Sanchez to be Associate Judges, Superior Court of the District of Columbia

September 21, 2022

On Judicial Philosophy:

- How would you describe your judicial philosophy?

Response: If confirmed, I plan to emulate judges who are prepared for all hearings, who are open minded and fair, who listen to the parties, and who reach reasoned decisions with diligence.

- If you are presented with a case, and the law clearly indicates that you should reach a particular result, but you conclude that result would be profoundly unjust. What do you do?

Response: I would examine the facts in the case and apply the applicable legal precedent.

- Should judges take changing social values into consideration when interpreting the law?

Response: The Supreme Court has held that when interpreting the meaning of a law or statute, courts should look to the plain meaning of the words of the text at the time of enactment. It is the job of legislators, not the courts, to create laws that take into account changing social values. If confirmed I will follow Supreme Court and DCCA precedent.

- What role should extrinsic factors not included within the text of a statute, especially legislative history and general principles of justice, play in statutory interpretation?

Response: The Supreme Court has indicated that when interpreting a statute the courts should look to the plain text of the statute. If that text is unambiguous extrinsic factors should not play a role. *Bostock v. Clayton County*, 140 S.Ct. 1731, 1749 (2020). If it is ambiguous, the court may examine extrinsic factors to interpret the meaning the legislature intended. Courts assess legislative intent by examining the words of the statute, applying the canons of statutory construction, and, as a matter of last resort, its legislative and statutory history.

- What Judge or Justice do you most admire? Why?

Response: I clerked for U.S. District Court Judge Edward C. Reed who was a true public servant his entire career, including serving his country. Judge Reed was fair and open minded, passionate about the rule of law, always prepared, and he reached reasoned decisions with diligence.

- If defendants of a particular minority group receive on average longer sentences for a particular crime than do defendants of other racial or ethnic groups, should that disparity factor into the sentencing of an individual defendant? If so, how so?

Response: The District of Columbia Sentencing Commission's Voluntary Sentencing Guidelines Manual states that "[n]either a defendant's nor a victim's race, gender, marital status, ethnic origin, religious affiliation, or sexual orientation may be considered in sentencing a defendant. This restriction does not preclude reference to the listed factors, or similar factors, when they are relevant to an issue in a proceeding (e.g., sentencing enhancement, Bias-Related Crime (D.C. Official Code § 22-3700 et. seq.))." § 3.1.

On Criminal Law:

- What do you see are the largest or most significant criminal issues currently in D.C.? And as a judge, what can you do to be able to help in that area?

Response: The COVID pandemic resulted in a backlog of cases in the Superior Court that is being addressed by the court. As an Assistant United States Attorney I have experience handling a large volume of cases and experience with litigation in Superior Court. If confirmed, I would be able to assist in handling the backlog of cases facing the Superior Court.

- What do you consider one of the most critical areas that you can serve D.C. while you're on the bench?

Response: See my response above.

On Religious freedom:

- Religious Freedom Restoration Act (RFRA) states that "[g]overnment shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability" unless the government "demonstrates that application of the burden to the person— (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest."

- To pass the least-restrictive-means test, the government must show “that it lacks other means of achieving its desired goal without imposing a substantial burden on the exercise of religion” by the religious objector.
- Would you agree that by denying churches the ability to hold an in-person church service, the city of Washington, D.C. violated RFRA?

Response: If confirmed, I would examine the underlying facts in a case that alleged a violation of the Religious Freedom Restoration Act (RFRA) under the standard articulated by the Supreme Court in *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014). First, a court must determine whether the government has demonstrated the burden on the exercise of religion is in furtherance of a compelling governmental interest. Second, a court must analyze whether the government has demonstrated that the burden imposed is the least restrict means for achieving that compelling interest. The Supreme Court has stated that the “least-restrictive means standard is exceptionally demanding” and evidence that the government has provided an accommodation for non-religious activity of a similar nature may be relevant to the determination that the regulation is not the least restrictive means. *Id.* at 728, 731.

- The Mayor has a vaccine mandate in place for all city employees (including a required booster whenever eligible to receive one). If a case came before you where an employee was required to be vaccinated under the Mayor’s order but doing so would violate their sincerely held religious belief and that employee requested and was denied a reasonable accommodation, how would you approach such a case? What steps would you take in determining whether the employee should be granted an accommodation from the mandate?

Response: If confirmed and a case came before me on the subject of reasonable accommodation due to religious reasons, I would apply the applicable legal principles to the facts. Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on religion, including a refusal to accommodate an employee’s sincerely held religious beliefs or practices unless the accommodation would impose an undue hardship. The Supreme Court has stated that, in the context of a religious accommodation, an undue hardship is created by an accommodation that has more than a “de minimis,” or very small, cost or burden on the employer. *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 84 (1977). An individual’s set of beliefs will meet Title VII’s definition of a religion if they are sincere, meaningful, and occupy a place in the life of an individual. *U.S. v. Seeger*, 380 U.S. 163, 165-166 (1965).

A reasonable accommodation is an accommodation that eliminates the conflict between the employment requirements and the individual’s religious beliefs. The Supreme Court held in *Ansonia Board of Education v. Philbrook*, 479 U.S. 60 (1986) that Title VII does not require an employer to grant the employee the particular accommodation he or she requests, because any reasonable accommodation by the employer is sufficient to meet its accommodation obligation.

I am aware of litigation over Mayor Browser’s vaccine mandate and that in *Fraternal Order of Police v. District of Columbia*, No. 22 -584 (D.C. Super. Ct. Aug. 26, 2022), the court ruled that the mayor had exceeded her authority when she required that all government employees get vaccinated against COVID-19 and that the District can no longer enforce the vaccine mandate. Because this issue may come before the court, it is not appropriate for me to comment on the District’s vaccine mandate.

Senator James Lankford
Post-Hearing Questions for the
Record Submitted to Veronica M.
Sanchez

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September 21, 2022

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Response: The Supreme Court has held that when interpreting the meaning of a law or statute, courts should look to the plain meaning of the words of the text at the time of enactment. It is the job of legislators, not the courts, to create laws that take into account changing social values. If confirmed I will follow Supreme Court and DCCA precedent.

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Response: The District of Columbia Sentencing Commission's Voluntary Sentencing Guidelines Manual states that "[n]either a defendant's nor a victim's race, gender, marital status, ethnic origin, religious affiliation, or sexual orientation may be considered in sentencing a defendant. This restriction does not preclude reference to the listed factors, or similar factors, when they are relevant to an issue in a proceeding (e.g., sentencing enhancement, Bias-Related Crime (D.C. Official Code § 22-3700 et. seq.))." § 3.1.

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- What do you see are the largest or most significant criminal issues currently in D.C.? And as a judge, what can you do to be able to help in that area?

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Response: See my response above.

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- To pass the least-restrictive-means test, the government must show “that it lacks other means of achieving its desired goal without imposing a substantial burden on the exercise of religion” by the religious objector.
- Would you agree that by denying churches the ability to hold an in-person church service, the city of Washington, D.C. violated RFRA?

Response: If confirmed, I would examine the underlying facts in a case that alleged a violation of the Religious Freedom Restoration Act (RFRA) under the standard articulated by the Supreme Court in *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014). First, a court must determine whether the government has demonstrated the burden on the exercise of religion is in furtherance of a compelling governmental interest. Second, a court must analyze whether the government has demonstrated that the burden imposed is the least restrict means for achieving that compelling interest. The Supreme Court has stated that the “least-restrictive means standard is exceptionally demanding” and evidence that the government has provided an accommodation for non-religious activity of a similar nature may be relevant to the determination that the regulation is not the least restrictive means. *Id.* at 728, 731.

- The Mayor has a vaccine mandate in place for all city employees (including a required booster whenever eligible to receive one). If a case came before you where an employee was required to be vaccinated under the Mayor’s order but doing so would violate their sincerely held religious belief and that employee requested and was denied a reasonable accommodation, how would you approach such a case? What steps would you take in determining whether the employee should be granted an accommodation from the mandate?

Response: If confirmed and a case came before me on the subject of reasonable accommodation due to religious reasons, I would apply the applicable legal principles to the facts. Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on religion, including a refusal to accommodate an employee’s sincerely held religious beliefs or practices unless the accommodation would impose an undue hardship. The Supreme Court has stated that, in the context of a religious accommodation, an undue hardship is created by an accommodation that has more than a “de minimis,” or very small, cost or burden on the employer. *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 84 (1977). An individual’s set of beliefs will meet Title VII’s definition of a religion if they are sincere, meaningful, and occupy a place in the life of an individual. *U.S. v. Seeger*, 380 U.S. 163, 165-166 (1965).

A reasonable accommodation is an accommodation that eliminates the conflict between the employment requirements and the individual’s religious beliefs. The Supreme Court held in *Ansonia Board of Education v. Philbrook*, 479 U.S. 60 (1986) that Title VII does not require an employer to grant the employee the particular accommodation he or she requests, because any reasonable accommodation by the employer is sufficient to meet its accommodation obligation.

I am aware of litigation over Mayor Browser’s vaccine mandate and that in *Fraternal Order of Police v. District of Columbia*, No. 22 -584 (D.C. Super. Ct. Aug. 26, 2022), the court ruled that the mayor had exceeded her authority when she required that all government employees get vaccinated against COVID-19 and that the District can no longer enforce the vaccine mandate. Because this issue may come before the court, it is not appropriate for me to comment on the District’s vaccine mandate.



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Articles

Anti-Intellectualism in the Modern Presidency: A Republican Populism

Colleen J. Shogan

Due to the amplified importance of forging an intimate connection with the American public, modern presidents must adjust their political personalities and leadership. To combat allegations of elitism, recent Republican presidents have adopted anti-intellectualism as a conservative form of populism. Anti-intellectualism is defined as disparagement of the complexity associated with intellectual pursuits, and a rejection of the elitism and self-aware attitude of distinction that is commonly associated with intellectual life. This article focuses on the benefits and costs of anti-intellectualism as a strategic response to the plebiscitary demands of contemporary presidential politics. As I describe it, an anti-intellectual approach to leadership originates from both a president's attitude about intellectual life and his public posturing. Brief case studies of Dwight Eisenhower, Ronald Reagan, and George W. Bush illustrate the political benefits of presidential anti-intellectualism. The limitations of presidential anti-intellectualism are also outlined.

To those of you who received honors, awards, and distinctions, I say, well done. And to the C students—I say, you, too, can be President of the United States.¹

The mood of the crowd that day in New Haven was beyond skeptical—it was downright caustic. As George W. Bush approached the podium to address the graduates, the hisses and boos from the audience were deafening. However, something bordering on remarkable happened during Bush's speech. By utilizing deft self-deprecating humor and a decidedly anti-intellectual tone, Bush managed to win the crowd over. At the end of the speech, the President actually received a hearty round of *applause*. The change in tide was impressive, and Bush's political talent shined brightly. He had disarmed a bunch of Ivy Leaguers with a most unlikely weapon: anti-intellectual humor.² Superficial observations about President Bush's anti-intellectualism are abundant amongst journalists, pundits, and even political scientists.³ How-

ever, the anti-intellectual nature of presidential leadership has not received a full analytical examination. Perhaps this is because as scholars, we loathe to admit the anti-intellectual culture that surrounds us. Despite our disdain, the American presidency is an institution that often embraces anti-intellectualism for political benefit.

This examination scrutinizes the relationship between anti-intellectualism and presidential leadership in the United States. Anti-intellectual posturing is a behavior that often originates from personal attitudes and private experiences, but can develop into a public leadership style with a strategic rationale. In this article, I describe a president's relationship with intellectualism as a continuum of behaviors and attitudes. The conceptual discussion is followed by three short case studies of presidents (Dwight Eisenhower, Ronald Reagan, and George W. Bush) whose leadership posturing place them on the explicitly anti-intellectual end of the spectrum.

Conceptualizing Anti-Intellectualism

An important first step in conceptualizing anti-intellectualism involves defining its opposite. "Intellectualism" is dedication to acquiring knowledge from reason, contemplation, or analytical thought. As an adjective, "intellectual" describes an individual who engages routinely in this type of behavior or praises its practice. On the other extreme of the ambit, "anti-intellectualism" is the attainment of knowledge through instincts, character, moral sensibilities, and emotions. A person who displays "anti-intellectual" qualities disparages the rational

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complexity associated with intellectual pursuits. Despite these negative opinions, anti-intellectuals are not necessarily unintelligent or dismissive of smart people. Instead, anti-intellectualism is best categorized as a specific type of anti-elitism. Anti-intellectuals exhibit distaste for the smugness and superiority they believe accompanies intellectual life. For anti-intellectuals, the intellectual generates suspicion and cynicism. Intelligence may be valuable and useful, but intellect is dangerous.⁴

Upon examination, presidents and other political elites can be placed along an "intellectual/anti-intellectual" continuum. The permeable nature of the continuum is an integral part of the concept because it is overly simplistic to think of presidents as either "intellectuals" or "anti-intellectuals." In the continuum I envision, there are two important components. First and foremost is a president's attitude regarding the *utility* of intellectual life and its pursuits.⁵ Is intellectualism embraced or disparaged, valued or vilified? Does the president view the advice of intellectuals as an integral part of his decision-making process? The second part of the continuum is the president's *public engagement* of intellectual activities. Does the president engage in intellectual activity himself or encourage others to do so? Does he publicly celebrate intellectual contributions, or disparage them?

These two components of the continuum lead to four general categories of presidential leadership. *Pro-intellectuals* believe in the value of intellectual pursuits and engage in such activities. They affirm the usefulness of intellectual life and showcase their intellectual orientations. *Brain trusters* understand the value of intellectual contributions, but do not routinely engage in such pursuits. They are intellectual dabblers; supportive of intellectualism but one step removed from a full embrace. *Intellectual utilitarians* are more scrupulous than the *brain trusters*. They view intellectualism with a practical gaze, and employ intellectuals for advice and counsel. But they also exhibit a condemning public attitude towards intellectuals and intellectualism in a strategic effort to dispel allegations of elitism. Finally, *anti-intellectuals* pose an unfavorable opinion of intellectual life, and often advertise their disparagement. *Anti-intellectuals* may believe in the importance of ideas, but reach conclusions based upon instinctual "gut feelings" rather than intellectual discourse or debate.

Two observations about the political implications of the continuum are worth mentioning. First, as the presidency has developed over time, more presidents have gravitated towards the anti-intellectual end of the spectrum. There has not been an unequivocal *pro-intellectual* president in the post-New Deal era of the modern presidency. Second, Republicans tend to exhibit anti-intellectual qualities, and Democrats coalesce on the intellectual tail of the continuum. This phenomenon is even more pronounced if the presidents of the past fifty years are considered. The

reasons for such a partisan divergence are numerous. They include changing electoral constituencies, the political transformation of the South, the rise of the religious right, and the post-World War II liberalization of academics and intellectuals. Once again, the fluidity of the continuum should not be forgotten. There are no rigid boundaries, and depending on the particular political situation, presidents may alter their position.

In brief case studies, I examine three presidents whose orientations are decidedly anti-intellectual in nature. As I describe it, an anti-intellectual approach to leadership originates from both a president's attitude about intellectual life and his public posturing. In the case studies that follow, I depict anti-intellectualism as a strategic tool used by modern American presidents to enhance their political authority.⁶ Presidents make conscious political decisions about where they fall on the continuum. These decisions reflect personal beliefs, but develop into an important component of their public leadership.

Recent Republican presidents have been particularly adept at capitalizing upon historical developments in the presidency and the media, which have encouraged a shift towards a more anti-intellectual leadership style. In Bruce Miroff's words, the modern presidency is dependent upon the creation of "spectacles" that encourage awestruck citizens to become passive spectators rather than active participants in politics.⁷ Spectacles lend themselves to the portrayal of presidents as energetic, dynamic, hyper-masculine individuals who defeat evil in the name of American democracy, exemplified by George W. Bush's landing on the USS Abraham Lincoln in 2003. The intellectual process of deliberation cannot constitute a spectacle. Furthermore, the modern presidency is also characterized by its increased assertions of executive independence and unilateral action.⁸ The rise of unilateralism encourages presidents to adopt a public anti-intellectual leadership approach. Anti-intellectualism snubs its nose at established experts. Thus, it is a defiant leadership stance—a forceful demonstration of independence. Implicitly, anti-intellectualism conveys the message that the president is in charge and that he answers to no one. Anti-intellectualism stresses simplicity and efficiency, which enables presidents to justify their unilateral actions. I offer brief sketches of how the anti-intellectualism of Dwight Eisenhower, Ronald Reagan, and George W. Bush has contributed to their political leadership and executive authority.

Dwight Eisenhower: Anti-Intellectualism and the Hidden Hand

Revisionist scholarship analyzing Dwight Eisenhower's leadership provides strong evidence to support the contention that anti-intellectualism should be considered a strategic response to strengthen political authority. Eisenhower's

administration marked the beginning of the modern anti-intellectual trend in presidential leadership. Along with the escalation of McCarthyism, the 1952 election between General Eisenhower and the "egghead" Adlai Stevenson gave rise to Richard Hofstadter's award winning analysis of political culture, *Anti-Intellectualism in American Life*. As both a candidate and president, Eisenhower utilized anti-intellectual posturing to enhance his political leadership.

Despite his brief tenure as president of Columbia University, Eisenhower had no problem portraying himself as an anti-intellectual. He promoted an anti-intellectual persona by emphasizing his pragmatic, no-nonsense demeanor. Eisenhower disdained elitism, and preferred plain-spoken rhetoric to a more ornate style. In addition to his anti-elitist attitude, Eisenhower was not smitten with academics, and publicly expressed his unfavorable opinion of intellectuals. At a 1954 press conference, Eisenhower defined an intellectual as "a man who takes more words than necessary to tell more than he knows." In a 1953 diary entry, Eisenhower expressed dismay about the mercurial temperaments of Washington insiders, and lamented that "sooner or later we will be unable to get anybody to take jobs in Washington except business failures, college professors, and New Deal lawyers."⁹ Eisenhower was no fan of intellectual life, and often showcased his skepticism for political purposes.¹⁰ As a presidential candidate, Eisenhower's anti-intellectualism earned him considerable political mileage. During the 1952 campaign, Eisenhower concentrated on cultivating his "ordinary" demeanor and defined himself in contrast to the "egghead" Stevenson. With Stevenson playing the intellectual, Eisenhower became the anti-intellectual foil.

In 1952, the intellectual community immediately embraced Adlai Stevenson. Despite an elite education and an upper-class background, Stevenson was not an intellectual himself. Intellectuals became attracted to Stevenson because he vowed to elevate the level of political discourse in American society, and pledged to "talk sense" throughout the campaign. He was considered the "new Woodrow Wilson" and endeared followers when, at a press conference, he called for "eggheads of the world to unite." Although Stevenson earned respect and a dedicated following, Eisenhower and his staff viewed Stevenson's campaign as a fringe movement. The majority of the early 1950s electorate perceived the intellectual as a slightly dangerous oddity. In this regard, Eisenhower had some help from Joseph McCarthy, who charged that Stevenson was unfit for office due to his association with so-called leftist academics, namely Arthur Schlesinger, Jr., Bernard DeVoto, James Wechsler, and Archibald MacLeish.¹¹

Eisenhower did not attack Stevenson, but merely distanced himself from Stevenson's weaknesses. In essence, Stevenson's intellectualism marginalized his candidacy. When Stevenson used sophisticated, intellectual argu-

ments in his speeches, Eisenhower spoke simply and emphasized his affinity for the common man. One voter wrote to the *Detroit News* that "we should have something in common with a candidate for President, and that's why I'm voting for General Eisenhower."¹² Eisenhower's masculinity was undisputed, but the *New York Daily News* observed that Stevenson "trilled" his speeches with his "fruity" voice. "Adelaide's" melancholy attitude stood in stark contrast to Richard Nixon's "manly explanation" of his financial affairs in the Checkers speech.¹³

As president, Eisenhower continued to adopt an anti-intellectual approach. As a Republican governing in the aftermath of the New Deal, Eisenhower astutely recognized that he needed to disarm the vitriol of his liberal opponents. Rather than trying to beat the liberals at their own game, Eisenhower concentrated on his popularity outside the Beltway. To this end, Eisenhower acted like an "ordinary guy" rather than an intellectualized policy wonk. Eisenhower strove to cultivate his down to earth image, which was essential for his larger political strategy. Much of his public persona was undoubtedly authentic (there's no evidence to suggest that Eisenhower didn't like westerns) but sincerity does not eliminate the strategic component of his actions and words.

In particular, Eisenhower's distinct rhetorical style often had the effect of speaking to many different audiences at the same time. When writing his 1953 Inaugural, Eisenhower remarked, "I deliberately tried to stay at the level of talk that would make as good reading as possible at the Quai d'Orsay or at No. 10 Downing," but that also "would sound good to the fellow digging the ditch in Kansas."¹⁴ Sometimes, Eisenhower was more concerned with hiding his personal interests and proclivities. For example, Eisenhower enjoyed classical music, but kept his hobby hidden from the public eye. He confessed to his personal secretary Ann Whitman that he was "deathly afraid of being considered highbrow."¹⁵

None of these observations break new ground for scholars who study Eisenhower's presidency. However, Eisenhower's anti-intellectual posturing becomes more relevant when we consider the possibility that subsequent presidents may have imitated him. Ronald Reagan keenly observed the ways in which Eisenhower defined himself against the intellectualized Stevenson. Likewise, it is not a coincidence that George W. Bush placed a bust of Eisenhower in the Oval Office and a portrait of the former president in the Cabinet room.¹⁶ Eisenhower reaped the political benefits of exceeding low expectations, thus paving the way for Reagan and Bush to follow in his path.

Ronald Reagan: Ideologue and Anti-Intellectual

In 1980, Robert Reich called the Republican presidential win a "triumph of ideas, an intellectual victory."¹⁷ The great irony of Reich's statement was that Ronald Reagan

led this “intellectual victory,” a man whom everyone thought personified anti-intellectualism. Reagan’s less than impressive intellectual capacities have been widely discussed and analyzed. Perhaps the most famous comment came from Democratic legend Clark Clifford, who described Reagan as an “amiable dunce.”¹⁸ Haynes Johnson charged that Reagan was neither intellectually curious nor deeply read.¹⁹ Reagan biographer Lou Cannon observed a “growing suspicion that the president has only a passing acquaintance with some of the most important decisions of his administration.”²⁰ According to news anchor Tom Brokaw, the opinion of Reagan as an intellectual lightweight is part of the “American fabric.” Agreeing with Cannon’s assessment, Brokaw described Reagan as a “gravely under-informed President.”²¹ Dinesh D’Souza began his Reagan biography with George Will and Michael Novak rolling their eyes in exasperation after listening to Reagan’s “naïve” musings about Gorbachev and the future of the Soviet Union at a Georgetown cocktail party.²² Conservatives and liberals alike doubted Reagan’s intellectual abilities. Reagan may not have engaged the world of ideas in a sophisticated way, but there was more to his anti-intellectual political persona than his supposed intellectual deficiencies. Reagan engaged in anti-intellectual posturing for its political value.

When running for governor of California in 1966, Reagan campaigned against the radical politics and protests emanating from state universities. In a 1966 speech at the Cow Palace in San Francisco, candidate Reagan stated:

There has been a leadership gap and a morality and decency gap at the University of California at Berkeley where a small minority of beatniks, radicals, and filthy speech advocates have brought such shame to and such loss of confidence in a great University that applications for enrollment are down 21% and are expected to decline even further.²³

The accepted intellectual viewpoint from the 1960s was that America’s true inheritance was oppression and discrimination.²⁴ Reagan challenged this intellectual viewpoint directly, contending that the true legacy of America involved a commitment to freedom and traditional morals. When Reagan began his campaign, the rowdiness at Berkeley and other college campuses was not a salient issue. By routinely discussing problems with university life in his speeches, Reagan actively sought to make it a campaign issue.²⁵ Reagan insisted that faculty members serve as *in loco parentis* and floated the idea that professors should adhere to a code of conduct that would set an example for the students they taught.²⁶

Reagan’s attacks upon the intellectual establishment were very popular amongst Californians who were transplants from either the Midwest or the South. His assault upon the radical politics of universities fit into his larger message that unless a drastic intervention occurred, California

was headed for a moral collapse. Reagan viewed faculty and students as troublemakers and “self-indulgent snobs” who were “contemptuous of middle class values.”²⁷ Consequently, Reagan targeted academics in his quest for moral reform.

As governor, Reagan continued his battle with the California university system; he called in the California Highway Patrol and the National Guard to “restore order” on campuses across the state. He made it clear that students did not attend college for the sake of learning. Instead, Reagan believed in the pragmatic value of a university education; college was a vehicle for personal advancement.²⁸ Reagan’s decisive actions in California fostered an anti-intellectual, anti-academic reputation that stayed with him throughout his political career.

Reagan’s anti-intellectualism also stemmed from his deep ideological beliefs. A scholar of Reagan’s rhetoric, Kiron Skinner, observed that in the White House, Reagan lacked intellectual curiosity and a robust work ethic. By the time he became president, Reagan had already thought carefully about the most important political issues facing the country. His ideology and philosophy were firmly in place. In 1981, Reagan’s beliefs were part of his own persona. According to Skinner, the presidency must have been “slightly boring” experience for Reagan.²⁹ He knew the direction he wanted to lead the country, and it was now up to his staff to figure out the details and implement the solutions.

An anecdote illustrates Reagan’s reliance upon ideology rather than intellectual prowess. Prior to an important international economic summit, Reagan’s staff provided the president with a long briefing book the evening before a jam-packed day of meetings, speeches, and interviews. In the morning, Reagan came to breakfast looking bleary-eyed. As his staff exchanged glances of worry, Reagan confessed that he was not tired because he had spent last night reading the briefing book, but because he had stayed up late to watch one of his favorite movies, *The Sound of Music*. Communications director David Gergen panicked—Reagan had not prepared at all for the economic summit. Despite his lack of preparation, Reagan performed well that day, engaging world leaders, the press, and audience members on a variety of pressing economic issues.³⁰ Reagan’s ideology was firmly in place; he felt he did not have to do his “homework” to perform adequately. The antiseptic rationales behind the policies were unimportant; what really mattered was an unwavering belief in the script. Reagan demonstrated that day he did not need briefing books or intellectual advice.

Lastly, Reagan understood the political benefits of anti-intellectual posturing. Based upon his political strategy, Reagan transformed the Republican Party from an organization based upon East Coast elitism to western populism. Former adviser Ed Meese remarked, “Reagan wanted to be known as a person of the people, not like an Adlai

Stevenson.”³¹ Reagan realized the value of his anti-elitist persona and protected it. Press secretary Marlin Fitzwater visited Reagan one night and saw that the President had several books and academic journals strewn across his desk in the Oval Office. Fitzwater asked Reagan if he was actually reading these books and articles. Reagan replied affirmatively. Fitzwater then told Reagan that he might use this fact in an upcoming press conference, particularly when reporters implied that Reagan was intellectually inferior or lazy. In response, Reagan told Fitzwater that he did not think it was a good idea to advertise his intellectual repertoire. Reagan liked playing the underdog, and understood the value of being underestimated in politics. He did not want to taint the anti-intellectual, anti-elitist portrait that the American public had already accepted and embraced.³²

The Political Independence of George W. Bush

Because George W. Bush has reawakened interest in the topic of American anti-intellectualism, it is appropriate to end with a discussion of his leadership. Bush's anti-intellectualism is a product of his personal life experiences and his political acumen. Bush's anti-intellectual style is not purely contrived; ample evidence suggests that he internalized the harsh criticisms of his father waged by Ivy League intellectuals. The definitive Bush biography entitled *First Son* provides an astonishing account of Bush's pervasive, lifetime disdain for intellectuals. Repeatedly in the book, stories are recounted in which northeastern elites from Harvard and Yale chastised George W. or his father.³³ These incidents left a major imprint on the younger Bush, and undoubtedly influenced his attitude concerning intellectual life. Bush has never tried to hide the fact that he does not appreciate the intrinsic worth of intellectual activities, such as reading long books on ethics or public policy.³⁴ His failed nomination of Harriet Miers to the Supreme Court strongly supports the notion that Bush values personal loyalty much more than building the intellectual heft of the conservative movement.

But more important than any psychological rationale is the political lesson Bush learned when he ran for Congress as a young man in Midland, Texas. Bush's Democratic opponent, Kent Hance, portrayed Bush as a privileged, Ivy League kid who wasn't really a Texan. When asked about the fact that he often chose to downplay his “intellectual side” as he campaigned for the presidency, Bush responded, “We're all sums of our experience. Kent Hance gave me a lesson in country-boy politics. He was a master at it, funny and belittling. I vowed never to get out-countryed again.”³⁵ In his 1978 Congressional campaign, Bush allowed his opponent to portray him as a northeastern elite. The valuable lesson Bush learned from that experience was that his esteemed background could be a liability as well as a political asset. From that day

forward, anti-intellectualism would become an integral part of Bush's political persona.

Bush's anti-intellectualism is strategic in the sense that it helps him recast any political descriptions that have been ascribed to him. More specifically, Bush uses his anti-intellectualism to surpass expectations, develop a “conservative” populism, showcase his moralism, and declare political independence. Bush learned from his unsuccessful congressional bid that winning candidates create their own histories and lore. Bush's anti-intellectualism enabled him to tell the story he *wanted* to tell rather than the story of the eastern blue-blood “first son.”

In their biography entitled *Shrub: The Short but Happy Political Life of George W. Bush*, Molly Ivins and Lou Dubose warned, “Don't underestimate George W. Bush.”³⁶ Bush's anti-intellectualism enables his portrayal as the political underdog. During the 2000 campaign, it was widely accepted that Bush was less intelligent than his challenger, Al Gore. The initial strategic reaction to this perception might be to combat it—to showcase Bush in situations that would highlight his mental capacities. Instead of this obvious reaction, the Bush campaign twisted Bush's supposed intellectual deficiency to work in his favor. By the time the much-publicized television debates rolled around, Bush had played the “underachiever” card so effectively, he simply articulated a few solid arguments to outperform the low expectations that had been assigned to him.

Like both Eisenhower and Reagan, Bush's anti-intellectualism also serves as an attempt to infuse conservatism with a healthy dose of populism. Anti-intellectualism helps Bush deflect potential accusations that label him or his policies as elitist or elite-driven. Bush's anti-intellectual populism is not traditional populism, based upon class warfare or economic inequalities. Instead, populism for Bush emphasizes authenticity. Historian Michael Beschloss explained that Bush's popularity stems from the widespread belief that “he is a guy with guts.”³⁷ His plain-spoken, folksy demeanor wipes away any semblance of privilege, and if pushed about his background, Bush often denies its influence entirely.³⁸ Karl Rove is anything but secretive about portraying Bush as a populist. In a meeting with reporters, Rove cited Bush's support for the dividend tax cut as evidence that the president was a populist, arguing that Bush prefers “Main Street” over “Wall Street.”³⁹ In 2002, Rove compared Bush's leadership style to Andrew Jackson's, inviting historian Robert Remini to the White House for a discussion on the subject.⁴⁰ The Bush administration excels at creating its own political definitions.⁴¹ If Bush suffers from accusations of elitism, Republican strategists respond by making him an anti-intellectual populist. Never mind that the shoe doesn't fit exactly—the key is to change the meanings of “populism” to suit Bush's agenda.

Beyond populism, Bush's anti-intellectualism showcases his overtly moral leadership style. Bush's anti-intellectualism

and moralism are complementary and reinforcing. Bush's need for clarity and the desire to minimize complexities are components of his anti-intellectualism, and these characteristics buttress the categorical moralism he often espouses. Bush's moral instincts guide his decision-making; it is a self-described visceral process. In a lengthy interview with Bob Woodward, Bush erupted when questioned about North Korea. Woodward describes Bush's reaction:

The president sat forward in his chair. I thought he might jump up, he became so emotional as he spoke about the North Korean leader. "I loathe Kim Jong Il!" Bush shouted, waving his finger in the air. "I've got a visceral reaction to this guy, because he is starving his people. . . . It is visceral. Maybe it's my religion, maybe it's my—but I feel passionate about this."⁴²

By definition, a visceral reaction cannot be reflective; it comes from the "gut" or from deep-seeded beliefs that are firmly rooted in place. Bush's instincts originate from his religion, and although no one doubts his sincerity when it comes to his faith, such proclamations are also politically beneficial: Bible-believing Christians are the President's strongest backers.⁴³

Bush is comfortable dealing with the religious wing of the Republican Party, and after serving as his father's liaison to the religious right during the 1988 campaign, he is a bona-fide veteran. But the genius of the Bush combo (anti-intellectualism + moralism) goes beyond his obvious appeal to evangelicals. Bush's unique blend also appeals to secular moderates. Michael Gerson, Bush's former chief speechwriter, translated Bush's ideas into a buoyant language that resonates with religious and non-religious crowds.⁴⁴ Beyond scripted rhetoric, his frequent use of the word "evil" evokes both a secular masculine image ("wanted dead or alive") and a religious overtone (from the Psalms). The mixture of moralism and anti-intellectualism delivers the message of firmness that Bush seeks to convey. There is no room for doubt, and very little time for deliberation and debate.

Finally, there is an independent bravado about Bush—personified by his anti-intellectualism—that supplants the formal constitutional powers of the office. This self-confidence made Bush in the immediate months following September 11 unusually suited for the presidency, which is, above all, an office that rewards independent action. Bush has admitted that the "wanted dead or alive" comments after the 9/11 terrorist attacks were motivated by a "little bit of bravado" and also the "self-defense of America."⁴⁵ But Bush's independent decisiveness doesn't end with his casual remarks to reporters. His view of the presidency itself is more revealing. When asked if he justified his "provocative" leadership style to his advisers, he responded:

Of course not. I'm the commander—see, I don't need to explain—I do not need to explain why I say things. That's the

interesting thing about being the president. Maybe somebody needs to explain to me why they say something, but I don't feel like I owe anybody an explanation.⁴⁶

Taken in the context of the interview, Bush's statement is not a tyrannical assertion, as some journalists or pundits imply. Rather, it is a simplistic and clear pronouncement of his political independence, a self-confident understanding of the constitutional powers he possesses.

Bush's anti-intellectualism also advertises the particular characteristics he believes presidents should possess. In recent town hall discussions about Social Security, Bush frequently appeared with an expert, often stating, "I'm a C-student. He's the PhD. He's the adviser. I'm the president. What does that tell you?"⁴⁷ By using his "expert" as a foil, Bush strongly implied that the presidency is no fit for intellectuals. Instead, the presidency is a place for someone who knows intuitively what the American people want, and can act resolutely on their behalf.

Bush's difficulties in his second term demonstrate that relying heavily upon anti-intellectual posturing creates political problems. Bush's persona has generated an expectation of decisiveness, which was absent during the Hurricane Katrina crisis. The subsequent change in Bush's demeanor was noticeable.⁴⁸ After enduring several weeks of criticism, Bush appeared defeated at an October 2005 press conference. Instead of displaying the bold assuredness he routinely exudes, Bush murmured answers unenthusiastically and looked as though he would rather be somewhere else. The same can be said for his public leadership on Iraq. Under fire for the continued violence and unrest, Bush's attempts at unwavering independence sounded awkward rather than defiant. The convoluted claim that he is a "decider who decides what's best" failed to deflect strong criticism of his and Defense Secretary Rumsfeld's wartime leadership.

Bush's lackluster performance illustrates a risk presidents take when they make anti-intellectualism a dominant political script. Anti-intellectual leaders generate the perception that they know what to do in any given situation because they base their decisions upon a reliable resource—their gut instincts. Consequently, if instinctual leadership fails, criticisms are aimed at the very essence of the individual in question, which can generate a spiraling crisis of confidence. When the chips are down and the swagger of self-confidence must be banished, the question is whether Bush will be able to move away from the bravado of anti-intellectualism and adopt a new political script that better fits the political circumstances he now faces.

Anti-Intellectualism in American Political Life

The relationship between intellectuals and democratic life is inherently uneasy. Intellectuals in a democracy remain

conflicted with the elite character of their own achievements and their egalitarian inclinations. There are exceptions to this rule, such as France, in which intellectuals can serve a quasi-institutionalized role in the political process. But in the United States, the relationship between political elites and intellectuals remains rocky. Unlike the specific authority granted to prime ministers in a parliamentary system, American presidents must seek authority when they can and claim legitimacy using all available political mechanisms.⁴⁹ Over time, the presidency has become a more plebiscitary institution, and in response to this development, Republican presidents have adopted anti-intellectualism as a political tactic. The three brief case studies showed presidents using anti-intellectualism to disarm their political opponents and forge a stronger popular connection.

George W. Bush is perhaps the most skilled operator of anti-intellectualism. Bush's anti-intellectualism encouraged his political opponents to underestimate his capabilities. In particular, the ability to rebuff opposition is particularly valuable in the current ideologically charged political climate. Analytical arguments can be disputed, but instinctual leadership that bases itself on time-honored values and beliefs is difficult to neutralize. Bush's visceral responses generate an aura of confidence that energized his base and rebuffed his opponents during his first four years in office. In his second term, Bush's anti-intellectualism reached its limits of effectiveness, but its impact on two presidential campaigns and four years of governance makes it a noteworthy political script that presidential scholars should not ignore.

The political use of anti-intellectualism is not entirely the product of institutional structure, changing electoral demographics, plebiscitary politics, or American culture. It would be remiss to neglect the role intellectuals have played in this evolving drama. The professionalization and expansion of the academy has altered common opinions about intellectualism in the United States. Academics now engage in technical dialogues within their disciplines that have grown increasingly specialized and esoteric. This detachment has changed how Americans perceive intellectual life. Decades ago, Richard Hofstadter wrote for academic historians *and* the average citizen interested in history. Now that academic careers depend more on peer recognition and engagement with the literature of a specific discipline, the likelihood of widespread societal influence has diminished. By reinforcing the perception of a separated ivory tower elite, the disengagement of American intellectuals encourages political accusations of irrelevance.

The current status of intellectuals as a political punching bag is unfortunate, but it is not the most serious problem created by presidential anti-intellectualism. The glaring dilemma at hand is that an inverse relationship has developed between the increasing demands of presidential lead-

ership and its current institutional incentives. In this sense, anti-intellectualism is an indicator of the larger structural tensions that frustrate American presidential leadership. The political benefit of anti-intellectualism is the pseudo-egalitarian connection it forges between presidents and the public. The danger is that the political importance of this supposed populist connection has supplanted the more intricate, policy-oriented debate that should serve as the hallmark of deliberation in an extended democratic republic.

Notes

- 1 Bush 2001.
- 2 Frum 2003, 29–30. Frum tells the story that when one of the presidential speechwriters discovered an arcane fact about Yale history, he told President Bush, who asked him if he went to Yale. The speechwriter replied that he had not. Bush responded, "Well, you didn't miss much."
- 3 Berke 2000; Weisberg 1999; Chait 1999; Gitlin, 2000; Brookhiser 2003.
- 4 For the difference between intellect and intelligence, see Hofstadter 1963, 24–51.
- 5 *Ibid.*, 27.
- 6 For a different approach to studying anti-intellectualism, see Lim 2003.
- 7 Miroff 2003.
- 8 Moe and Howell 1999.
- 9 Eisenhower 1996, 27.
- 10 As president of Columbia, Eisenhower was dedicated to improving the institutional life of the university, but never showed much interest in the academic disciplines. He considered himself as an institutional, rather than intellectual, leader. See Eisenhower 1996, xviii.
- 11 Johnston 1952.
- 12 Hofstadter 1963, 226.
- 13 *Ibid.*, 227.
- 14 Bose and Greenstein 2002, 187.
- 15 Pach and Richardson 1991, 44.
- 16 Frum 2003, 53–54.
- 17 Troy 2002, 143.
- 18 Clifford made the remark at a private dinner party. Unbeknownst to him, the hostess of the party, who had fallen ill earlier in the day, had conversations recorded so she could listen to them. Clifford's comments were released publicly, and became infamous.
- 19 Johnson 1991, 49.
- 20 Cannon 1982.
- 21 Hertsgaard 1988, 149.
- 22 D'Souza 1997, 1.
- 23 Reagan 1968, 125.
- 24 Hecla 2003, 23.

- 25 Johnson 1991, 80.
- 26 Reagan 1968, 127.
- 27 Dallek 1999, 46.
- 28 Stuckey 1989, 110.
- 29 Skinner 2001.
- 30 Gergen 2000, 151–52.
- 31 Personal interview, Ed Meese, September 14, 2004.
- 32 Personal interview, Martin Anderson, July 26, 2004.
- 33 The most famous and widely quoted incident was George W. Bush's interaction with Yale chaplain William Sloan Coffin, who supposedly told Bush (a freshman) that a "better man" had beaten his father for the Senate in Texas. See Minutaglio 1999, 85. Minutaglio writes that for the next thirty-five years, the encounter with Coffin resonated in George W. Bush's mind.
- 34 When Tucker Carlson interviewed Bush for the September 1999 issue of *Talk* magazine, he asked the Texas governor to name his weaknesses. Bush replied, "Sitting down and reading a 500-page book on public policy or philosophy or something."
- 35 Isaacson 2000, 55.
- 36 Ivins and Dubose 2000, 43.
- 37 CBS News, 2002. "Face the Nation." December 1.
- 38 Isaacson 2000, 55. Bush explained, "Someone once said of my dad that he got to Texas a little too late in life, he was already well bred. That wasn't the case with me."
- 39 Milbank 2003.
- 40 Milbank 2002.
- 41 Skowronek 2005, 819.
- 42 Woodward 2002, 340.
- 43 Fineman 2003.
- 44 For example, in his September 20, 2001 speech in front of a joint session of Congress, Bush stated, "Whether we bring our enemies to justice, or bring justice to our enemies, justice will be done." The reference to "justice" conveys both religious and secular meanings.
- 45 Woodward 2002, 100–01.
- 46 Ibid., 145–46.
- 47 Leibovich 2005.
- 48 VandeHei and Baker, 2005.
- 49 For a more comprehensive discussion on this point, see Galvin and Shogan 2004.
- Brookhiser, Richard. 2003. Mind of George W. Bush. *The Atlantic Monthly*, April, 55–66.
- Bush, George W. 2001. Commencement address at Yale University. May 21. <http://www.yale.edu/lt/archives/v8n1/v8n1georgewbush.htm>.
- Cannon, Lou. 1982. High-risk presidency at the crossroads. *Washington Post*, January 21.
- Chait, Jonathan. 1999. Race to the bottom. *New Republic*, December 20.
- Dallek, Robert. 1999. *Ronald Reagan: The Politics of Symbolism*. Cambridge, MA: Harvard University Press.
- D'Souza, Dinesh. 1997. *Ronald Reagan: How an Ordinary Man Became an Extraordinary Leader*. New York: The Free Press.
- Eisenhower, Dwight David. 1996. *Papers of Dwight David Eisenhower* XIV. Louis Galambos and Duan Van Ee, eds. Baltimore: John Hopkins University Press.
- Fineman, Howard. 2003. Bush and God. *Newsweek*, March 10, 22–30.
- Frum, David. 2003. *The Right Man*. New York: Random House.
- Galvin, Daniel, and Colleen Shogan. 2004. Presidential politicization and centralization across the modern-traditional divide. *Polity* 36 (3): 477–505.
- Gergen, David. 2000. *Eyewitness to Power*. New York: Simon & Schuster.
- Gitlin, Todd. 2000. The renaissance of anti-intellectualism. *Chronicle of Higher Education*, December 8.
- Heclo, Hugh. 2003. Ronald Reagan and America's search for a public philosophy. In *The Reagan Presidency: Pragmatic Conservatism and Its Legacies*, ed. W. Elliot Brownlee and Hugh Davis Graham. Lawrence, KS: University Press of Kansas.
- Hertsgaard, Mark. 1988. *On Bended Knee: The Press and the Reagan Presidency*. New York: Farrar Straus Giroux.
- Hofstadter, Richard. 1963. *Anti-intellectualism in American Life*. New York: Vintage Books.
- Isaacson, Walter. 2000. My heritage is part of who I am. *Time*, August 7, 55.
- Ivins, Molly, and Lou Dubose. 2000. *Shrub: The Short but Happy Political Life of George W. Bush*. New York: Vintage Books.
- Johnson, Haynes. 1991. *Sleepwalking through History: America in the Reagan Years*. New York: W.W. Norton & Company.
- Johnston, Richard J.H., 1952. McCarthy terms Stevenson unfit. *New York Times*, October 28.
- Leibovich, Mark. 2005. Don't stop him even if you've heard this one. *Washington Post*, March 14.
- Lim, Elvin. "The anti-intellectual presidency." 2003. Paper presented at the American Political Science Association Conference, Philadelphia, PA, August 29.

References

- Berke, Richard. 2000. Head games: What a mind! In politics, that's not what matters. *New York Times*, June 25.
- Bose, Meena, and Fred Greenstein. 2002. The hidden hand vs. the bully pulpit: The layered political rhetoric of President Eisenhower. In *The Presidency and Rhetorical Leadership*, ed. Leroy Dorsey. College Station, TX: Texas A&M Press.

- Milbank, Dana. 2002. Another ol' hickory in the White House? *Washington Post*, September 17.
- . 2003. Background checks. *Washington Post*, January 28.
- Minutaglio, Bill. 1999. *First Son: George W. Bush and the Bush Family Dynasty*. New York: Random House.
- Mitroff, Bruce. 2003. The presidency as spectacle. In *The Presidency and the Political System*, ed. Michale Nelson. Washington, DC: CQ Press.
- Moe, Terry, and William Howell. 1999. Unilateral action and presidential power: A theory. *Presidential Studies Quarterly* 29 (4): 850–72.
- Pach, Chester J. Jr., and Elmo Richardson. 1991. *The Presidency of Dwight D. Eisenhower*. Lawrence, KS: University Press of Kansas.
- Reagan, Ronald. 1968. *The Creative Society: Some Comments on Problems Facing America*. New York: Devin-Adair Company.
- Skinner, Kiron. 2001. What the Ronald Reagan archives tell us about the final decades of the Cold War. *Colloquium in International History and Security* at Yale University, October 17.
- Skowronek, Stephen. 2005. Leadership by definition: First term reflections on George W. Bush's political stance. *Perspectives on Politics* 3 (4): 817–31.
- Stuckey, Mary. 1989. *Getting into the Game: The Pre-presidential Rhetoric of Ronald Reagan*. New York: Praeger.
- Troy, Tevi. 2002. *Intellectuals and the American Presidency: Philosophers, Jesters, or Technicians?* Lanham, MD: Rowman & Littlefield.
- VandeHei, Jim, and Peter Baker. 2005. President struggles to regain his pre-hurricane swagger. *Washington Post*, September 24.
- Weisberg, Jacob. 1999. Do dim bulbs make better presidents? *Slate*, November 3. <http://slate.msn.com/?id=1003943>.
- Woodward, Bob. 2002. *Bush at War*. New York: Simon & Schuster.

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Statement of Congresswoman Eleanor Holmes Norton
Senate Committee on Homeland Security and Governmental Affairs
Hearing on Vijay Shanker, Laura E. Crane, Leslie A. Meek and Veronica M. Sanchez

September 21, 2022

Chairman Peters and Ranking Member Portman, I appreciate the opportunity to offer this statement in support of Vijay Shanker to be an Associate Judge on the District of Columbia Court of Appeals and Laura E. Crane, Leslie A. Meek and Veronica M. Sanchez to be Associate Judges on the Superior Court of the District of Columbia. All four would bring the experience and credentials to be excellent judges.

Vijay Shanker currently serves as the Deputy Chief of the Appellate Section of the Criminal Division at the United States Department of Justice (DOJ) and is currently on detail as Senior Litigation Counsel in the Criminal Division's Fraud Section. In this current role, Mr. Shanker investigates and prosecutes violations of the Foreign Corrupt Practices Act and similar laws and advises attorneys on similar litigation matters. He previously served as Senior Counsel and then as Acting Deputy Chief of Staff and Counselor to the Assistant Attorney General for the Criminal Division. Mr. Shanker has been recognized with the Attorney General's John Marshall Award, the Assistant Attorney General's Award for Exceptional Service and the Assistant Attorney General's Award for Distinguished Service. Mr. Shanker clerked for Judge Chester J. Straub on the United States Court of Appeals for the Second Circuit after graduating from the University of Virginia School of Law. In law school, Mr. Shanker was named to the Order of the Coif and served as a Notes Editor on the Virginia Law Review. He graduated *cum laude* with a Bachelor of Arts Degree in public policy from Duke University.

Laura E. Crane, who has served as an Assistant United States Attorney (AUSA) in the United States Attorney's Office for the District of Columbia (USAO for DC) since 2014, currently is the Deputy Chief in the Violent Crimes and Narcotics Trafficking Section. There, she supervises AUSAs in the investigation and prosecution of complex federal cases targeting violence and narcotics trafficking. Before her supervisory position, she also prosecuted violent crime in the Superior Court of the District of Columbia. Ms. Crane has received the FBI Washington Field Office Service Award, the USAO for DC's Impact Award, the USAO for DC's Award for Exceptional Service and the USAO for DC's Team Award. Ms. Crane was previously a senior associate at WilmerHale and a litigation associate at Cravath, Swaine, and Moore, LLP, and she has worked in the DOJ's Civil Rights Division, where she enforced

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compliance with the Americans with Disabilities Act. Ms. Crane is a *magna cum laude* graduate of Duke University, and received her law degree, *summa cum laude*, from the Washington University School of Law. Following law school, she clerked for Judge James E. Boasberg of the United States District Court for the District of Columbia.

Leslie A. Meek is currently an Administrative Law Judge (ALJ) with the District of Columbia Office of Administrative Hearings, and has served in that position since 2014. She previously served as an ALJ and an Appellate ALJ with the District of Columbia Department of Employment Services, Administrative Hearings Division. In that role, she adjudicated workers' compensation claims. Judge Meek graduated from Fisk University and the Case Western Reserve University School of Law. After law school, Judge Meek served as an Assistant State's Attorney in Miami-Dade County, Florida. Judge Meek has served as Assistant City Attorney for the City of Miami, Assistant General Counsel for the Comptroller of the State of Florida and as General Counsel for United Teachers of Dade.

Veronica M. Sanchez serves as a Senior Assistant United States Attorney for the District of Columbia. She is the Chief of the Major Crimes Section in the Superior Court of the District of Columbia, where she oversees attorneys responsible for investigating and prosecuting felony violent crimes in the Superior Court. Prior to this position, Ms. Sanchez prosecuted other crimes in the Superior Court. She has served as a Senior Assistant United States Attorney in the Fraud Section, focused on financial fraud matters in the D.C. Superior Court. She has been awarded several United States Attorney's Awards for Special Achievement in these roles. Before joining the USAO for DC, Ms. Sanchez was a Trial Attorney with DOJ's Antitrust Division. She received her Bachelor's degree from Duke University and is a graduate of the University of California School of Law. Following law school, Ms. Sanchez clerked for Judge Edward C. Reed of the United States District Court for the District of Nevada and for Judge Melvin T. Brunetti of the United States Court of Appeals for the Ninth Circuit.

I appreciate the committee moving these nominees, and I look forward to working with you to end the vacancy crisis on the local D.C. courts.